LEGISLATIVE COUNCIL

Tuesday, 14 November 2017

The PRESIDENT (Hon. R.P. Wortley) took the chair at 11:39 and read prayers.

The PRESIDENT: We acknowledge Aboriginal and Torres Strait Islander peoples as the traditional owners of this country throughout Australia, and their connection to the land and community. We pay our respects to them and their cultures, and to the elders both past and present.

Parliamentary Procedure

SITTINGS AND BUSINESS

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (11:40): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers and question time to be taken into consideration at 2.15pm.

Motion carried.

Bills

LABOUR HIRE LICENSING BILL

Second Reading

Adjourned debate on second reading.

(Continued from 28 September 2017.)

The Hon. T.A. FRANKS (11:41): I rise on behalf of the Greens to support, with some reservations, the Labour Hire Licensing Bill 2017. This bill creates a state-based licensing system for labour hire providers making it unlawful to operate without a licence, or for employers who engage labour hire workers to use an unlicensed operator. The bill comes about after the 2015 *Four Corners* exposé and investigation into the exploitation of migrant workers and a subsequent report by the Economic and Finance Committee, undertaken and completed in 2016, into the labour hire industry in this state, which reflects work that was done most notably in Queensland and indeed somewhat at a commonwealth level.

The Greens have pushed for better treatment of those who are part of the workforce and indeed would have brought to this parliament a labour hire licensing bill had the government not acted. I understand that the unions I have spoken to in this space—and I would particularly like to make note of the National Union of Workers and the AWU—are supportive, and I think most members of the community would be quite supportive, that we should be treating these workers and people in this industry with not just dignity and respect but indeed the common application of rightful laws to ensure that they are not exploited in our state.

In introducing this bill back in August in the other place, the minister noted that it was not a perfect bill and that the government was quite open to amendments. I know that there are many amendments tabled, both from government and opposition quarters, and the Greens look forward to debating each of those on their merits but certainly do not want to delay the passage of legislation that will protect workers in this state.

I recently met some of those workers from Perfection Fresh, formerly trading as D'VineRipe, in a house where over a dozen workers gathered to tell me that they were still being exploited. We can stop this exploitation at some level, and we can ensure that people get a fair day's pay for a fair day's work and are not given undue and shocking conditions in this nation that should do much better by its workers. With those few words, I commend the second reading and I look forward to the committee stage.

The Hon. K.L. VINCENT (11:44): I simply wanted to briefly place on the record that the Dignity Party also supports this bill which, as other members have noted, arises from a *Four Corners* exposé into the exploitation of workers. This is obviously a very important measure, particularly symbolised by the fact that the Master Builders Association and the CFMEU have come together, which is not a thing that happens very often, to say the least. It shows us how important it is that we address these issues and the level of support for this bill that has been before us for some time. With those few brief words, I wish to lend my strong support to both this bill and to workers' rights generally.

The Hon. R.L. BROKENSHIRE (11:46): We have had some correspondence on this particular bill and the Australian Conservatives advise that there are some concerns over this bill. In fact, we have spoken to business and workplace advisers and we understand that some areas, including the wine industry, still have serious concerns over amendments that have been placed regarding the Labour Hire Licensing Bill 2017. I note that since the initial tabling of this bill and debate in another house, as it has come up here, the government has advised us that it is moving amendments. The problem is that those amendments appear to us not to go far enough to support the concerns over the definition of 'labour hire services' in clause 6 of the bill.

The proposed amendment does not apply to external service providers that are not involved in the provision of labour, while at the same time it is capturing labour hire providers providing temporary labour. There is some information that I received only a few days ago that says there should be a new definition of 'labour hire services'. The wine industry, as one group that has concerns, has considered whether there are existing definitions in employment regulations that can be utilised with appropriate modifications. All the federal awards (known as the 'modern awards') covering private sector employers and employees contain a definition of 'labour hire' at Appendix 1. The following definition is included in all 122 industry and occupational boards and has been developed by the Fair Work Commission:

> On-hire means the on-hire of an employee by their employer to a client where such employee works under the general guidance and instruction of the client or a representative of the client.

I understand from what is stated here in this letter to me that the definition is understood and accepted by both employers and unions. The South Australian Wine Industry Association has modified the award definition to ensure that it not only applies where the labour hire provider engages the worker under contract of service known as employment, but also where the worker is engaged under contract for services as an independent contractor.

Further, to ensure that commercial services where an external service provider undertakes, for example, mechanical repairs, winemaking, bottling or grape crushing, do not fall under the definition of labour hire services, it is necessary that current clause 6(2)(d) be removed. This is the request from this one industry sector and is because a key characteristic of the external service that is being provided is that the client does not exercise guidance, instruction or control. If clause 6(2)(d) were to be retained, these non labour hire services could still be taken to be part of labour hire services as defined in clause 6.

There are proposed amendments that we are considering at the moment. There are unintended consequences that could have ramifications for a broad range of industry sectors but in the one in which my family works and which I know well, namely agriculture, as has been highlighted here by the South Australian Wine Industry Association, the unintended consequences bring in all those other people who come in for mechanical repairs or who just do the winemaking or the bottling or the crushing.

There are a lot of situations on farms where farmers may not directly employ a large number of people. They employ some family but then they bring in people to do specific jobs. In fact, on average, seven jobs in South Australia are created through the value-adding of requirements for people to come in in the very short term and do certain work, sometimes specialist work, on a farm. That is of real concern.

The way it is at the moment is a little bit like tying in the situation we had some years ago where third parties became equally as responsible in the trucking industry for a load shift or for overloading. Even in my case as a dairy farmer, I can be in bed at 11 o'clock at night. A tanker comes and pumps out our vat and that happens to put that tanker over its weight approvals. We are now

responsible for that even though we did not load the milk onto that truck and we were not even present when it occurred. There are real concerns about that and we believe that there are similar concerns with that analogy with respect to this labour hiring bill.

We reserve our right to look at moving amendments in committee and we make it clear to the government and opposition and crossbench members that, at this point in time, we are not committed to absolutely supporting the third reading of this bill.

The Hon. J.E. HANSON (11:52): Today, I am happy to say that I speak in support of the second reading of the labour hire bill that is before us. Unfortunately, the reputation of the industry as a whole has suffered in recent times following a very well-publicised ABC *Four Corners* report about a number of state and federal inquiries which have exposed varying degrees of exploitation and unscrupulous behaviour by rogue labour hire providers. There are a range of measures in the bill that will help restore confidence in and promote the integrity of the industry.

Some key clauses of the bill establish a chain of responsibility, which means that all parties to a transaction for the supply of labour hire services have a legal liability to do the right thing. For example, end users of labour hire workers will not be able to turn a blind eye to worker exploitation. In doing so, this bill will improve the business competitiveness and viability of labour hire companies that comply with their legal obligations and operate ethically and responsibly.

The public register of licensees is another important measure and will be critical for the success of the scheme. The register will provide users of labour hire, both businesses and workers, with the assurance that they are entering into an arrangement with a licensed provider. For persons providing labour hire services, the register provides them with an advertisement of their services and public recognition that they are fit and proper.

Additionally, the robust set of conditions and requirements that a labour hire provider must meet to obtain and continue to hold a licence will help ensure that legitimate labour hire businesses do not face competition from shonky labour hire operators who structure their arrangements to avoid obligations in a race to the bottom.

In introducing this bill, the government has sought to balance the need to provide protections for vulnerable workers and eliminate opportunities for unscrupulous providers to operate within the rules, thus minimising the administrative burden on the labour hire providers who operate ethically and in compliance with all their legal obligations. This bill achieves that. It will protect both workers and those labour hire providers who are doing the right thing. Therefore, I am happy to say that this government supports the bill.

Debate adjourned on motion of Hon. T.J. Stephens.

FINES ENFORCEMENT AND DEBT RECOVERY BILL

Second Reading

Adjourned debate on second reading.

(Continued from 28 September 2017.)

The Hon. M.C. PARNELL (11:57): I thank the house for their indulgence. I think I am not the only person who has been out of breath. As we know, there are a lot of items on the *Notice Paper*. I predicted that the previous item would take longer, but it did not. My contribution will be very brief, and that is to put on the record that the Greens have some serious concerns with this legislation. We have been contacted by a number of people, individuals as well as organisations.

The Law Society has written to us and said that they have some serious concerns with this bill. They are worried that the bill will unfairly impact certain sectors of society. I think at the heart of their concerns is an understandable anxiety that, when we have seen how debt recovery works at the federal level, we have seen robocalls and automated debt recovery, and we have also seen in other areas the involvement of private sector debt collectors. You can see how what seem like good idea efficiency measures end up in tears. I think that is something we need to be very cautious of.

The Law Society points out that enforcement action against youths has not been well thought through in the legislation. They are suggesting that amendments would improve the bill. The Law

Society accepts that, in the case of financial hardship, certain debtors might be able to take advantage of intervention programs, but the concluding position of the Law Society is that they reiterate the concerns they first raised back in 2013.

That submission related to a worry that the government was giving itself favourable creditor status. It was giving itself the power to bypass ordinary rights and protections for debtors and to exploit parliamentary power to enable the outsourcing and sale of fine revenue. They have raised some serious concerns, and on behalf of the Greens I just wanted to put those briefly on the record.

The PRESIDENT: The Hon. Mr Darley.

Members interjecting:

The Hon. J.A. DARLEY (12:00): We will talk about that, too. This bill will broaden the powers of the government to recover debts and expand the circumstances whereby community service and intervention programs can be undertaken in order to service a debt. The bill will also enable all debts that are owed to the government, including civil debts, to be dealt with by the fines unit.

I am supportive of the provisions in the bill; however, I hold some concerns that the chief recovery officer will now be able to terminate a payment arrangement if they are of the opinion that a person's circumstances have changed and they are of the opinion that the person is now able to pay the debt.

The paperwork required by the fines unit to enter into a payment arrangement has increased in the past few years. It is no longer simply a matter of requesting a payment arrangement and having it granted. Individuals need to demonstrate that they would suffer financial hardship should they be required to pay their debt up-front, so it is not easy for a payment arrangement to be granted.

I understand that payment arrangements would only be terminated in circumstances whereby the CRO becomes aware of a person's increased capacity to pay. However, I would hope that the CRO would consult with individuals before terminating such agreements.

The government's attempts to find alternative measures so that people will be able to service their debts are commendable. However, Advance SA believe that the government should also be looking at the other end of the spectrum, that is, the cost of fines in the first place.

South Australia's speeding fines are 50 per cent higher than the national average. The most directly comparable jurisdiction to South Australia is Tasmania, and our fines are approximately double theirs. These stats indicate that the fines are not about safety; rather, it is revenue raising for the government. Last year, $126.6 million was raised from fines and penalties, with an expected 20 per cent increase to $152.4 million in 2020. Clearly, the government expect to keep milking this cash cow.

While I commend the government for trying to help vulnerable people, if they were serious about it, they would also be looking at not slugging them with outrageous fines in the first place.

Debate adjourned on motion of Hon. T.J. Stephens.

STATUTES AMENDMENT (COURT FEES) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 31 October 2017.)

The Hon. J.A. DARLEY (12:04): The proposal we are considering today is a result of a review of court fees undertaken by the Courts Administration Council. Essentially, it has been suggested that lodgement fees for civil claims in the Magistrates Court should be tiered and a new setting-down fee should be introduced for listing civil matters for trial in the Magistrates Court. Although there is no suggestion that fees be tiered for any of the superior courts, the bill makes the relevant changes to allow for this in the future. I understand this has already happened in most other states, with the exception of New South Wales and Tasmania.

In the Attorney-General's second reading, he said that the introduction of a fee for listing a civil action should encourage more parties to attempt to settle civil claims before trial and reduce the

number of civil claims being listed for trial. I am not convinced that this is the only outcome it will have and am very concerned that increasing fees will only serve as a barrier to justice for those who cannot afford it.

I thank the Attorney-General's staff, who have been very helpful in providing information—comparing the fees South Australia currently has, what the proposed changes are under this bill and how this compares to other states. The fee increases will result in South Australia having the highest fees for civil claims in the Magistrates Court. This is even the case when we compare our fees with Queensland, which has an upper threshold of $150,000; that is, $50,000 more than South Australia's threshold.

I am alarmed at the increases the government is proposing. Advance SA would like to know why the court fees in South Australia are so much higher than interstate. Why does it cost more to seek justice in South Australia than it does in any other state in the country? Unfortunately, it is not only court fees where we are the most expensive; we have some of the country's most expensive speeding fines, stamp duties on property, land tax and workers' compensation premiums, not to mention the cost of electricity.

The tiered civil claim lodgement fees and new setting-down fees are expected to generate an additional $607,000 per annum. I would like to know what the revenue is going towards. Will it be put back into the courts to upgrade the facilities, which definitely need maintenance work undertaken? I am yet to see a compelling reason as to why I should support this bill and reserve my right to oppose it in later stages.

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (12:07): I thank members for their second reading contributions to, and indications of support for, this bill. The Hon. Andrew McLachlan asked a number of questions during the second reading debate on the bill, which I will answer now. I think that will make the committee stage very easy indeed. The first question related to the Courts Administration Authority's review of court fees, from which the proposal to introduce tiered fees in the Magistrates Court and the need for this bill arose. I am advised that it is important to clarify that the courts fee review was not requested by the Attorney-General or the government; it was an internal, own motion initiative of the Courts Administration Authority.

The review was a Courts Administration Authority council report prepared as an internal working document and not intended for public release. That is why it is not available to members, I am advised. In terms of whether there has been a discussion of also introducing tiered fees in the higher courts, I am advised that the proposal received by the Attorney-General from the Courts Administration Authority stated that the courts will, over the next few years, introduce an electronic records management system that will provide for a range of new court processes. This may lead to future opportunities to introduce tiered fee structures in other jurisdictions.

I am advised that there are at present no plans to introduce tiered fees in the higher courts. However, on the advice of parliamentary counsel, the introduction of tiered civil lodgement fees in the Magistrates Court requires a specific regulation-making authority to that effect in the Magistrates Courts Act. The Courts Administration Authority sought amendment to other acts contained in this bill, so that, as an extension to the existing regulation-making powers under the various courts acts to fixed fees, there is no future impediment to also structuring those fees on a tiered basis.

The Hon. Andrew McLachlan referred to concerns raised by the Law Society, both in initial consultation with the courts and subsequent consultation conducted by the Attorney-General about the bill and its proposed regulations, in particular about the potential impact on access to justice. In developing the proposed new tiered civil lodgement fees for the Magistrates Court, the Courts Administration Authority was mindful to structure those fees so as to minimise any impact on access to justice. Lodgement fees are not proposed to increase for claims under $25,000. For claims over $25,000, the impact of the increased fees will predominantly affect large corporations rather than individuals.

On average, I am advised, only 4.8 per cent of claims by individuals and small businesses—that is, those that are not prescribed corporations—will be affected by the proposed tiered fees,

based on data from the 2013-14, 2014-15 and 2015-16 financial years. My advice is, for example, that for the 2015-16 financial year, there was a total of 20,563 civil lodgements by individuals and small businesses, with a claim value from $0 to $100,000, of which 1,107 were claims in excess of $25,000 and would therefore be impacted by the proposed new tiered fee structure.

It is also relevant to note that until changes to the jurisdictional limits of the Magistrates Court by the Statutes Amendment (Courts Efficiency Reforms) Act in mid-2013, claims over $40,000, or $80,000 in the case of vehicle injury and property claims, lay to the District Court with considerably higher fees than the Magistrates Court civil lodgement fees. The proposed increased fees for those claim ranges would still be lower than the District Court civil lodgement fees that would have applied to those claim ranges prior to mid-2013.

I trust this answers the Hon. Andrew McLachlan's question, and I look forward to the speedy consideration of this bill through the committee stage.

Bill read a second time.

Committee Stage

Clause 1.

The Hon. A.L. McLACHLAN: Firstly, I would like to thank the minister for his second reading summing-up and through him, the officer who prepared that very comprehensive response, because it satiated every inquiry that I possibly could have. As a consequence of that and my reflection upon it, I do not have any questions for the minister during committee, nor will the Liberal Party be seeking to amend the bill.

Clause passed.

Remaining clauses (2 to 7) and title passed.

Bill reported without amendment.

Third Reading

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (12:13): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (TERROR SUSPECT DETENTION) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 28 September 2017.)

The Hon. D.G.E. HOOD (12:14): I rise to indicate the Australian Conservatives' position on this bill. It is presented to the parliament at a time when there are significant changes being made across our nation in relation to the threat of terrorism, indeed internationally. There is no doubt that the world we live in is vastly different to what it once was, and presumably it may in fact be different in the future from what it is now in this regard, and we expect it will be. Unfortunately, we have seen a number of terrorist acts and we have seen the consequences of those acts throughout the world in recent times. As a result of that a number of raids have been conducted right around the planet to prevent terrorism and to act in what we hope and believe in goodwill is in the best interests of the citizens of those countries, including Australia.

All of these are difficult for us as legislators because some of this legislation intrudes on what would normally be considered the traditional process of events in terms of the rights of witnesses, the rights of those apprehended, etc. This whole series of events, this whole issue, challenges our once-held notion that Australia is somehow immune to these treacherous events, when in fact we have seen incidents on our own shores in recent times that prove categorically that we are not immune from this type of unfortunate event.

This bill was initiated by a COAG agreement on 9 June this year, whereby the ministers present agreed to create a presumption against bail or parole for those who have demonstrated support for or have links with terrorist activity. It is one of the many terrorism bills that we are seeing come through the parliament at both a state and federal level in recent times.

Whilst the threat to the community is real in our estimation—and there are also real concerns the public holds in regard to terrorism—at this stage we can only give, at best, an educated guess as to how these laws, as proposed, and others proposed nationally at the moment, will be used and how effectively they will be in stopping the threat of terrorism in Australia.

This bill certainly will take our South Australian law in a direction that many in the legal profession will be uncomfortable with. We share some of those concerns. It is not without some reflection that our parliament should pass what once would have been considered unpalatable, even unthinkable, legislation. But, on balance, we consider these laws are necessary to protect the greater good.

One of the most obvious situations that has caused community angst is that of Man Monis, the Lindt Café shooter, who was out on bail after being charged with being an accessory before and after the fact of the murder of his ex-wife. Whilst Man Monis did not have any official links to terrorism, it seems, he has been described as self-identifying and self-affiliating with ISIS. It is quite likely that under this bill, should it have been enacted with the information-sharing provisions that it includes, Man Monis would have been subject to a terrorism notification and therefore remanded in custody, rather than being out on bail and able to commit such an atrocity.

There was significant public outcry regarding his bail status, and no doubt this bill is in part due to that situation, as well as others. We have long called for tougher laws for those who commit serious or heinous crimes, so, not surprisingly, as I indicated at the outset, this is a bill that the Australian Conservatives will support, although of course it is important for all of us to understand that these are quite extraordinary measures in some regards.

Currently, the Bail Act says that persons should be granted bail unless the bail authority considers sufficient reasons to not grant bail exist. Under this bill the presumption is changed to require bail to be refused to a terror suspect, unless special circumstances justifying their release can be established, otherwise known as a reverse of the onus.

To be a terror suspect one merely has to be charged with a terrorist offence, those who have been convicted and those who are subject to a terrorism notification, which I understand is very similar to the commonwealth Bail Act provisions. The notion that someone can previously have been charged with a terrorist offence, but not have that matter proceed because there was insufficient evidence to prove the charge, is an understandable inclusion, but it does raise some concern as to how it will be managed and what level of scrutiny those few who have no ties to terrorist organisations may come under should they have been incorrectly charged with an act they actually did not commit.

One would hope that common sense would prevail in this instance. However, when it comes to terrorism people are very sensitive, understandably, and at times even over cautious, and it does allow for the situation whereby someone can suffer, through no fault of their own. It also creates a situation whereby someone who was applying for bail for an offence which has nothing to do with terrorism will likely be denied because of a prior charge or offence in this regard.

As mentioned, we can see why this inclusion would be in the bill, and it does add a level of protection against those who are legitimately engaged in terrorist activities. When I say 'legitimately engaged', actually engaged is perhaps a better description. Presumably, a person who has either severed their terrorist links or never had any to begin with would be able to prove that there are special circumstances that would justify their release under this regime. Time will tell if this alone will prove to be sufficient. We certainly hope it does.

This bill creates a presumption against bail and parole for terror suspects, as I previously outlined. It further provides for post-sentence supervision and extended detention where the likelihood of the person being involved in or committing a terrorist offence is high. The bill extends information-sharing provisions across jurisdictions to allow intelligence authorities to share information regarding those suspected of terrorist activities, supporting terrorist activities or otherwise

being involved in terrorist activities. These are all common-sense provisions and will enjoy our support.

Placing terror suspects into the high-risk offenders act is also a welcome inclusion. The Attorney-General or commonwealth Attorney-General would be able to apply to the Supreme Court for an extended supervision order against someone who is serving a term of imprisonment in South Australia. The term of imprisonment does not have to be related to terrorism offences for an extended supervision order to be given, which, again, has caused concern in some legal circles. In our view it is in keeping with the types of laws we pass here and what is necessary for the common good regarding terrorism and criminal organisations, which today operate in much different circumstances than they used to.

The Law Society, perhaps not unexpectedly, has raised the concern that information relating to terrorism notifications will not be shared with the accused or their legal team, and that creates difficulty in contemplating how they might successfully mount an argument that the accused does not pose a risk and should be granted bail. This is becoming an ever-increasing trend in bills before our parliament, where sections of law enforcement hold information which is not released to the accused but which can have a significant impact on the rights of the individual. We must be cautious with these developments.

At this stage we are, on balance, prepared to accept extending these sorts of provisions, as we have done to criminal intelligence, now, through this bill, to terrorist notifications. However, it is certainly not something we would expect to see in less serious matters before this parliament and, ultimately, before the courts as a result.

Due to the seriousness of the sorts of offences this bill targets and the increasing threat that Australia, and hopefully to a lesser degree South Australia, faces, we reluctantly concede that we believe, on balance, that these measures are somewhat necessary. I expect that this bill will pass, and it will enjoy Australian Conservatives' support.

Debate adjourned on motion of Hon. J.M. Gazzola.

CONSTITUTION (ONE VOTE ONE VALUE) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 28 September 2017.)

The Hon. M.C. PARNELL (12:22): I rise, on behalf of the Greens, to speak on this bill and on its companion referendum bill as well. Most South Australians do not fully understand how the electoral system works. That is no criticism of them; it is just that it is a complex system and, apart from having to vote on voting day, most people do not fully understand how it works. However, I think what most people do appreciate is that each person's vote should, as far as possible, be worth the same.

People may have watched old, historical dramas from Charles Dickens' time referring to 'rotten boroughs' and all sorts of 'malapportionment' in various democracies over the years, and most people are quite grateful that we do not have such a system in South Australia. People might know of the Joh Bjelke-Petersen era in Queensland, where certain votes were worth two or three or more times what other votes were worth, and the word 'gerrymander' is understood by a lot of people, the idea that you can put all your political opponents together and construct boundaries in such a way that it increases your chance of getting elected, even though you do not necessarily have a lot of the vote.

In South Australia I think well-meaning people have, over time, tried to create a mechanism to ensure there is electoral fairness and that we do not have a gerrymander, but I do not think those mechanisms work in the modern age. The reason I say they do not work is that South Australia and in fact I think the whole country is moving beyond a two-party view of the world. It may have been in the past that two major parties have attracted 90 or more per cent of the vote in a certain electorate or in a certain election, but that has not happened for a long time. In fact what we have seen, just in terms of recent South Australian history, is that sometimes it is a quarter, sometimes it is a third, and

sometimes it is pushing half of people not voting for either of the major parties, either statewide or in a particular seat.

So, the idea of viewing the electoral world through a two-party lens is an anachronism. It is not the way South Australians vote. In the current parliament we have eight opposition members, seven government members and six crossbench members. In the previous parliament it was much easier to work out the sums on the floor of parliament: seven, seven, seven—a third government, a third opposition and a third crossbench. That is the way South Australians have voted in the last several elections, and as everyone in this chamber knows the government of the day has not controlled the upper house, not since the 1970s. South Australians now appreciate that the world is not a two-party world.

When we look at the South Australian constitution, we find that there are curious provisions in there which fly in the face of that recent experience and maintain the fiction that the world can be viewed through a two-party lens. I refer in particular to section 83 of the constitution, which is unfortunately and, in my view, erroneously entitled 'Electoral fairness and other criteria'.

There are three subsections in section 83. The second of those subsections I think is inoffensive. What that subsection says is that when the electoral boundaries commission, after each election, reviews where the boundaries should lie in terms of lower house seats, they need to take into account things that I think are obvious: the population that either exists or is projected in each of these seats; whether there are any communities of interest of an economic, social or regional nature; and the topography of the different seats. In other words, all the things that we would expect and have over many decades expected the electoral boundaries commission to take into account are in section 83(2) of the constitution.

The other two subsections, (1) and (3), I think are seriously problematic in a democratic sense. Section 83(1) basically says that the electoral boundaries commission has to try to structure the boundaries so that if candidates of a particular group attract more than 50 per cent of the popular vote then they will be elected in sufficient numbers to enable a government to be formed. That is the so-called fairness clause. It is the clause that the Liberal Party has, over the last several elections, claimed has failed, because they point out that if you do a simple aggregation of two-party preferred, statewide, you will find that they got over 50 per cent and Labor got under 50 per cent, but the Liberals did not win enough seats, so they did not form government.

I make the point, however, that in many of those lower house electorates in terms of the minor party vote, whether it was the Australian Conservatives, the Dignity Party, the Greens or Mr Xenophon's team, there was a substantial vote for other than the major parties. The idea of saying that at the end of the day everyone must fall on one side or the other of Liberal or Labor makes no sense at all. In fact, there was at least one electorate where the two-party preferred was not between Liberal and Labor; it was between Liberal and Greens. In the seat of Heysen, I think you will find that the Labor and Greens vote was identical in terms of first preference votes, but the official two-party preferred was Liberal and Greens; it was not Liberal and Labor.

The previous parliament has tried to assist the electoral boundaries commission in resolving this problem by requiring of them the impossible. Subsection (3) is impossible to achieve. I will read it as it only has four lines:

> For the purposes of this section a reference to a group of candidates includes not only candidates endorsed by the same political party but also candidates whose political stance is such that there is reason to believe that they would, if elected in sufficient numbers, be prepared to act in concert to form or support a government.

I say it is an impossible task. Just think about it: what the electoral boundaries commission has to do a year or more out from the election is, first, make a guess about who is going to run and which parties and which Independent candidates are going to run, so that is guess number 1. Guess number 2 is: 'How many votes are they going to get?', and guess number 3 is: 'Which side do you think they would support if push comes to shove in forming a government?'. They are the three impossible tasks that the electoral boundaries commission has imposed on it, and it is no great surprise that they fudge it. When the job comes they tend to ignore that section because it is too hard to apply.

We only have to think of this current election coming up where Mr Xenophon has said he is going to be running candidates. We have had the Liberals coming out saying, 'We would never join in with a coalition with them.' I have not heard the same from Labor and we have not heard either of the parties say that they will not enter a coalition with the Greens, or with the Australian Conservatives. The fact that the electoral boundaries commission somehow, in order to achieve what is euphemistically and incorrectly described as 'fairness', has to attribute someone as being either Liberal or Labor, and that that is the only way to view the world, is an absolute nonsense.

The position that the Greens have taken is that, when we have a provision in legislation that is a nonsense, we move to get rid of it. So, the Greens will be moving to get rid of section 83(3). Let's not force the electoral boundaries commission to undertake an impossible task. They do not know who is running, they do not know the vote that those people running are going to get, and they do not know which way they lean. In fact, here we are less than five months out from election and we still do not know which way people are going to lean, and we still do not know who is going to nominate because the nominations have not even been opened yet. It is a ridiculous provision and we should get rid of it.

Similarly with section 83(1), the idea that the world has to be looked at through a two-party lens is a nonsense and I am moving to get rid of that as well. What that leaves us with is subsection (2), so the electoral boundaries commission will take into account all of those traditional factors: communities of interest, geography, ease of communication, all of those things will remain. But the predominant factor will be—and this is where the government's bill comes in—that the seats should be of equal size, and that the one vote one value provision is the provision that should prevail. If my amendments are successful, then we will ensure that no one South Australian's vote is worth any more than any other South Australian's.

I cannot just let this bill go with those remarks because I think at its heart the government has asked the wrong question in relation to trying to tinker with a system that is dealing with an imperfect framework. The Greens' preferred model would be to go back to first principles and look at voting systems for the lower house that do deliver true democracy, that they do provide parties with the number of seats in proportion to the vote that they achieved. The Greens are very favourably inclined towards multimember electorates, the sort of electorates that we see in the ACT for example, in New Zealand or even in Tasmania. That means that rather than a winner-takes-all approach, which is a two-party view of the world, if you had multimember electorates you would, I think, in South Australia be guaranteed to have a mixed parliament. You would be very unlikely to get one party to achieve an overall majority.

People throw their hands in the air and say, 'Well, that is a recipe for disaster.' You only have to look at those 'disastrous' economies in Scandinavia. Jeez, they are struggling in Sweden and in the Netherlands and places like that! They do really well with a proportional system of voting which delivers multiple parties who then work in concert to achieve stable government—strong economies, proud traditions of social innovation and they have not had simple two-party systems for many decades. I do not see those economies and those societies as basket cases. They work really well.

I might put in a plug here for members who have not watched the television series *Borgen*. It was described as *The West Wing* with subtitles and it does have a number of very excellent scenes in it, including the prime minister arriving at work on a bicycle, which tells you that it has come out of Northern Europe. The point is that you do not have to have a two-party view of the world. If there are other parties involved, they can work together and form alliances, but the fundamental principle is that the people get what they voted for. You do not have a situation where a party could get, for example, 20 per cent of the vote statewide and not win a single lower house seat. That is inherently undemocratic.

Whilst the Greens believe that the government has asked the wrong question, to the extent that we are now tinkering with the system we have before us, the Greens' approach is to support the government bill to make sure that equality of voting members per seat is the predominant consideration. We are moving the two amendments I referred to, getting rid of the two-party statewide clause in section 83(1) and also getting rid of this fiction that the electoral boundaries commission has to judge where non-major party votes will end up. I think it is a fiction and we are seeking to delete those clauses as well.

I particularly address my remarks to my colleagues on the crossbench. The Greens' amendments are not designed for any particular ideological perspective. From a crossbench point of view, if you support the status quo, you are supporting being invisible. You do not really count in the system if you are a minor party or an Independent, so I would hope to have the whole of the crossbench on board with these amendments because, as we have known in the upper house, we have been visible for many decades and we think that in the lower house that should apply as well. Getting rid of section 83(3) basically puts minor parties on the map where they should be and puts a nail in the coffin of the two-party view of the world.

Debate adjourned on motion of Hon. D.W. Ridgway.

STATUTES AMENDMENT (CHILD EXPLOITATION AND ENCRYPTED MATERIAL) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 18 October 2017.)

The Hon. K.L. VINCENT (12:37): I speak today on behalf of the Dignity Party in support of this bill, which essentially gives police officers more powers to demand passwords and gain access to technological devices that they reasonably suspect contain material pertaining to child exploitation.

I know that some might take a civil liberty approach to this particular measure and have concerns about expanding police powers to demand access to people's personal devices, but in this particular instance, given that the police do have to have a reasonable suspicion that the device does contain exploitative material and that these measures pertain to children, I think it is reasonable to take whatever measures we can to make sure that that material is accessed and that those who access that material, possess that material and produce that material are suitably punished.

I do want to put one question to the minister responsible for this bill. Given that police officers are going to be given access to more devices that they reasonably suspect contain child exploitation material, and given that that is likely to increase their workload and the frequency with which they are looking at child pornography and, to say the least, other very unpleasant material, what plan is there to increase supports for police officers in terms of both the workload and the mental health toll that that could take?

I understand that they are already required to take some breaks from looking at such material in undertaking this workload, but I would like to know whether there are any specific measures in place to support the mental health of these officers accessing that material, particularly where they are required to gain access to a child pornography network by essentially posing as a child pornographer. I think it is reasonable to ask what supports are in place to support the mental health of police officers accessing that material as part of their work. Other than that question, I support the bill.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

POLICE (DRUG TESTING) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 19 October 2017.)

The Hon. J.S.L. DAWKINS (12:41): I rise on behalf of Liberal members to speak on the Police (Drug Testing) Amendment Bill and to say that the opposition will be supporting the bill. On 27 September this year, the government introduced this bill into the lower house. It was handled there on behalf of the Liberal Party by the shadow minister for police, the member for Schubert. In short, the bill will amend the Police Act 1998. It will, firstly, allow police, police cadets and those applying to be police cadets to be tested for any drug listed in the Controlled Substances Act 1984 and, secondly, change the definition of 'drug screening test' and provide a new definition of 'oral fluid analysis'.

Currently, police, police cadets and those applying to be police cadets can be tested for drugs but only those expressly listed in the regulations to the Police Act 1998, these being cannabis, MDMA and amphetamines. The Police Act 1998 was amended in September 2014 and associated regulations were gazetted to allow for the drug and alcohol testing of police. SAPOL subsequently developed internal policies that govern when drug and alcohol testing occurs for police. Police are drug tested when they are involved in critical incidents whilst on duty, high-risk driving whilst on duty and when applying for classified positions.

Police cadets and applicants to be police cadets currently can be drug tested if there is a suspicion that alcohol or an illicit substance has been used. This bill does not change this policy. The bill does not change SAPOL's internal policies governing when police cadets and those applying to be police cadets can be tested for drugs and alcohol. It does change the sections relating to the drug and alcohol testing of police cadets and applicants to be police cadets, sections 41A to 41C, but these changes are consequential.

The bill will allow a broader range of drugs to be tested for by allowing the Commissioner of Police to approve testing for any drug listed as a controlled drug under the Controlled Substances Act 1984. This is a significant change from the current practice as the drug is required to be prescribed in the regulations to the Police Act 1998. This will allow the range of drugs that can be tested for in the future to be expanded without the need for legislative intervention. Under the current regime, cannabis, MDMA and amphetamines are tested for. It is the government's intention that, following the passage of this bill, the Commissioner of Police will initially broaden the drug testing regime to include heroin and cocaine and will in time include other controlled drugs listed in the Controlled Substances Act 1984.

It is an offence under the Road Traffic Act 1961 for members of the public to drive a motor vehicle with heroin or cocaine in their system. However, the government intends that roadside drug testing will remain focused on alcohol, cannabis, methylamphetamine and MDMA (ecstasy). It is about time that the drug testing regime for police, police cadets and those applying to be police cadets be extended to include testing for heroin and cocaine.

This bill is the manifestation of an incredibly long process that it has taken to look at how we drug test police. The Police Act 1998 was first amended in September 2014 to allow for the drug testing of police officers. However, the regulations only allow for the screening of alcohol, cannabis, amphetamines and ecstasy. It seems ridiculous that heroin and cocaine, two drugs which are commonly found in our community, were excluded. Three years later, the government is still trying to get this right.

Police, as we all know, work in very difficult, high-stress and high-risk environments. It is incredibly important that they have the clearest head possible to do their jobs and are supported by other officers who have the clearest head possible as well. That is why it is so important that they, like those in many other less dangerous professions, are subject to a drug testing regime.

We know that drug testing in some form or another is very much part of the vast majority of private sector workplaces, certainly for those working in more high-risk industries like manufacturing, for those working with dangerous tools or for those who use our roads in the course of their work.

Random drug testing is a commonly used tool in the private sector because businesses have an obligation: they have a duty of care, as a person conducting a business or undertaking, to provide that duty of care to workers and co-workers. That is a long-established principle and it is something that was enhanced in the 2012 work health and safety legislation changes. Extending that obligation to what would be considered one of the most high-risk occupations in police is extremely sensible.

These amendments are supported by the Police Association. I quote from a letter that the Police Association of South Australia wrote to Commissioner Stevens on 13 December 2016:

> I refer to your letter of 6 December 2016 when you seek consideration and support from PASA to extend the range of controlled drugs which can be tested for through workplace drug testing in circumstances relating to critical incidents and high risk driving. You advised that SAPOL's current testing regime does not test for drugs such as heroin or cocaine.
>
> The association agrees that this is an unacceptable situation. We are aware that the Police Act and Regulations provides for workplace testing of police officer and cadets to include testing for a substance that is a

controlled drug under the Controlled Substances Act 1984. Therefore, your advice that you seek to test for heroin and cocaine is in keeping with the Police Act and Regulations.

At its most recent meeting on Thursday the 8th of December, the Police Association's committee of management was in unanimous agreement that this should occur and we are supportive of SAPOL's position in that regard.

The bill changes the definition of 'drug screening test' and replaces the oral fluid analysis procedure in the Police Act 1998 and the Police Regulations 2014 with an oral fluid collection procedure, which is consistent with similar amendments and proposed amendments to the Road Traffic Act 1961, the Rail Safety National Law (South Australia) Act 2012 and the Harbors and Navigation Act 1993. This change will occur because the devices that are currently used by police for oral fluid analysis are no longer supported by the manufacturer and the consumables for the device are no longer available for purchase.

SAPOL will source and purchase oral fluid screening equipment that can detect the presence of heroin and cocaine, as well as ecstasy, amphetamines and cannabis. The bill allows the Governor to approve the use of this equipment under the Police Act 1998 by regulation, which allows for transparency. The advantage of the new device and procedure is that the test will provide an immediate positive or negative result.

In reiterating the Liberal Party's support for this legislation, I want to again thank Mr Stephan Knoll, the member for Schubert in another place, for his work on behalf of the party in providing information in relation to this matter. I support the bill.

The Hon. K.L. VINCENT (12:50): All I wish to say is that I support the bill. Given that we are allowing police officers to protect people in our community, it is reasonable that they should be clear of any illicit drugs that have no therapeutic basis. This bill, of course, seeks to expand the number of drugs for which police officers and cadets, or people seeking to be police officers or police cadets, can be tested for. Given that we are talking about drugs with no therapeutic basis that can change a person's state of mind, and given that we need police to be alert on the job, it makes sense to do so. I therefore lend my support to the bill.

Debate adjourned on motion of Hon. S.G. Wade.

STATUTES AMENDMENT (LEADING PRACTICE IN MINING) BILL

Second Reading

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (12:52): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation and explanation of clauses inserted in *Hansard* without my reading them.

Leave granted.

South Australia possesses a wealth of mineral resources. These are owned by the people of South Australia, and need to be managed in the community's best interests.

For 180 years our mineral resources industry has made an immense contribution to the economic and social development of South Australia. Our State and our strong regional centres have been built on the back of mining and farming, and these two industries have together seen us through many turbulent times.

Through the copper and grain booms of the mid to late 1800s, these industries worked together to bring rail, jobs and prosperity to our regions and underpinned the rapid development of our great cities. Indeed, the construction of this this place is not only a testament to the importance of locally available resources – Kapunda marble, Mitcham sandstone, West Island granite – but is a testament to the dominance of the South Australian agricultural sector from 1850-1890 and the importance of the Burra 'Monster Mine' which supplied 5%-10% of the world's total copper consumption for decades. For this reason, we were known internationally as the 'Copper Kingdom.'

But, mining and farming are not only industries of our past; they will continue to be the twin 'engine rooms' of the South Australian economy moving forward.

In 2016/2017 South Australian mining and petroleum exports were $3.8 billion (representing 32% of our total export GDP), and the mining sector continues to provide over 25,000 regional and metropolitan South Australian jobs (both direct and indirect). We also continue to see the benefits of mining and quarrying in our individual daily lives: from the construction materials used to build our homes, highways and stadiums; to the steel in our cars, trains and power poles; the fertiliser used by our farmers to grow their crops; and the copper needed for our phones and homes. We are, among other things, very much a 'mining state.'

So we must remain committed to leading practice regulation of the mineral resources sector, so that we continue to attract and retain explorers and mining and quarry operators who are committed to 'unlocking our resources' in a sustainable manner and building strong long-term relationships with landowners and communities.

Over our history we have substantially updated our mineral resources legislation in five main stages. This Bill will be the sixth major reform of our legislation, and directly reflects the 82 recommendations from the *Leading Practice Mining Acts Review* that came out of the most comprehensive community consultation undertaken on the *Mining Act 1971*, the *Opal Mining Act 1995* and the *Mines and Works Inspection Act 1920* in our history.

The purpose of these Acts is clear: to enable mineral exploration and production in South Australia in a safe, environmentally responsible, and transparent manner. As community expectations around consultation, transparency and environmental safeguards change over time, we must ensure that our legislation continues to strike the right balance between these factors and the importance of promoting economic growth that prepares us for the future.

This Bill contains a balanced package of amendments that have attracted the support of leading academics and mining, agricultural, regional and legal representative bodies and stakeholders.

The Bill will increase protections and assistance for communities and landowners via nation-leading transparency requirements, a free and open mining register, increased protection zones around rural residences, increased industry-funded legal advisory assistance at an early stage, and clearer engagement obligations.

This Bill will drive greater investment, regional jobs and improved jurisdictional competitiveness through simplified processes, improved market mechanisms to drive international investment and partnerships, and the removal of outdated tenement structures and obsolete requirements.

This Bill will ensure improved environmental protections through a fit-for-purpose evidence gathering and enforcement scheme, better protections for conservation areas, clarified rehabilitation requirements and enforcement powers, strengthened requirements for decision-makers to consider all environmental and social factors in the pre-grant assessment, and further alignment with the *Environment Protection and Biodiversity Conservation Act 1999*.

This Bill will ensure landowners have better access to justice via simpler court and mediation processes under the *Mining Act 1971*, which will complement projects being developed alongside the Review aimed at ensuring landowners have access to timely, accurate and independent advice services.

This Bill will also improve processes under the *Opal Mining Act 1995* to ensure the sustainable expansion of our important and unique opal mining industry that continues to drive tourism in the north of our State, and supply approximately 40% of the world's opal.

These balanced amendments are the result of consultation with over 1700 stakeholders, including landowner groups, resource companies, landowners, tenement managers, industry consultants, commonwealth, state and local government agencies, mining lawyers, academic experts, environmental groups, regional boards and authorities, councils, community consultative committees, traditional owner groups, primary industry associations, business associations, unions, and interest groups.

The Bill was also drafted in accordance with advice received from various cross-jurisdictional forums and independent expert panels, including the *Leading Practice Mining Acts Review Academic Advisory Panel*, the *Mining and Farming Roundtable* and the *Specialist Legislative Panel*. The *Academic Advisory Panel* was comprised of recognized international leaders in the areas of mining law, environmental regulation and rehabilitation, native title and agreement making, mine safety, and commercial law, such as Dr John Southalan from the Centre for Mining, Energy and Natural Resources Law at the University of Western Australia and our own Dr Alex Wawryk from the University of Adelaide. The *Specialist Legislative Panel*, comprised of pre-eminent judicial members and mining and landowner lawyers from leading law firms, also provided important advice on the Bill, which complimented the knowledge gleaned from over 45 meetings and forums with leading international and national regulatory agencies.

This Bill reflects the suggestions and changes recommended by community members and stakeholders in over 200 *Review* meetings and forums, and in the over 1000 pages of written submissions submitted during the *Review*.

These timely amendments will ensure South Australia remains a leading mining jurisdiction, will prepare South Australia for the future, and will provide balanced benefits for all.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Mining Act 1971*

4—Amendment of section 6—Interpretation

This clause amends a number of definitions consequent on new or updated provisions in the measure. This includes the amendment and recasting of key terms used in the Act such as *mineral tenement* (instead of mining tenement), *authorised operations* (instead of mining operations), and *tenement holder* (instead of mining operator).

5—Amendment of section 7—Application of Act

This clause inserts new subsections (2), (2a) and (2b). Subsections (2) and (2a) provide power to make regulations in respect of the application or non-application of specified provisions of the Act depending on various specified factors. Subsection (2b) provides for the circumstances in which royalty is payable or not payable under the Act.

6—Amendment of section 8—Declaration of mineral land etc

The amendments in subclauses (1) and (2) are consequential. Subclause (3) provides for the circumstances in which a proclamation made under the section before 29 June 1972 will be taken to have limited or affected the exercise of the power to make a proclamation under the section on or after that date.

7—Amendment of section 8A—Opal development areas

This amendment is consequential.

8—Amendment of section 9—Restricted land

Land previously defined as exempt land is proposed under this clause to be referred to as restricted land. The clause further amends section 9 to declare land of the following kinds to be restricted land:

- land that is lawfully and genuinely used as a yard or garden;
- land that is lawfully and genuinely used as a cultivated field, plantation, orchard or vineyard for commercial purposes;
- land situated within the prescribed distance (as now defined in the section, which varies in relation to whether the operations are low impact or advanced exploration operations, or any other authorised operations) of a building or structure used as a place of residence;
- land within 150m of a building or structure with a value equal to or exceeding the prescribed amount (as defined in the section) used for an industrial or commercial purpose.

The clause also makes a number of consequential amendments to section 9.

9—Amendment of section 9AA—Waiver of restriction (including cooling-off)

Section 9AA provides a formal process for a tenement holder to invite an owner of land to enter into an agreement with the tenement holder to waive the benefit of a restriction under section 9. If the tenement holder is unable to reach an agreement with the owner of land, they can apply to the ERD Court for an order waiving the benefit of the restriction for the person.

Under section 9AA as proposed to be amended by this clause, an owner of land who has the benefit of a restriction in respect of land to which a mineral claim has been registered will be able to advise the tenement holder of their position in relation to the waiver of the benefit of the restriction, and the conditions (if any) on which they may agree to waiving the benefit of the restriction. If application is made for a production tenement or a miscellaneous purposes licence, an owner of land who has the benefit of a restriction under section 9 in respect of the land to which the application relates will be able to apply to the appropriate court for orders under subsection (9).

Subsection (9) as recast will authorise the appropriate court to make the following orders:

- an order confirming that the owner of land is entitled to the benefit of a restriction under section 9;
- if the tenement holder or owner of land satisfies the court that any adverse effects of the proposed authorised operations on the owner of land can be appropriately addressed by the imposition of conditions on the tenement holder (including the payment of compensation to the owner)—an order waiving the benefit of the restriction and imposing conditions on a party to the proceedings.

New subsection (14b) requires an agreement made under the section to be given to the Mining Registrar for registration on the mining register.

New subsection (14c) makes it clear that nothing in section 9AA derogates from the jurisdiction of the Warden's Court under section 67 to make determinations about whether land is restricted land under section 9.

10—Amendment of section 9A—Special declared areas

The amendments in this clause are of a consequential nature.

11—Repeal of section 10A

This clause repeals section 10A dealing with special conditions attaching to the mining of radioactive minerals.

12—Amendment of section 10B—Interaction with other legislation

The clause adds section 10B(e) which provides that the Minister must, in acting in the administration of the Act, take into account the code of management of wilderness protection areas and wilderness protection zones under the *Wilderness Protection Act 1992*.

13—Amendment of section 12—Delegation

This clause amends section 12 to extend and clarify the power of delegation of the Minister and the Director of Mines.

14—Amendment of section 13—Mining registrars and other staff

The clause amends section 13 to extend and clarify the power of delegation of the Mining Registrar.

15—Amendment of section 14B—Authorised investigations

The clause makes a number of consequential amendments, as well as provides additional circumstances in which an investigation is to be taken to be an authorised investigation, namely if the purpose of the investigation is—

- to undertake any inquiry relevant to the administration or enforcement of the Act; or
- to inspect any authorised operations which are creating, or are likely to create, a nuisance, or are damaging, or are likely to damage, property.

16—Amendment of section 14C—Powers of entry and inspection

This clause amends section 14C to extend and clarify the powers of entry and inspection of authorised officers under the Act. The clause also provides additional provisions that require an authorised officer to only exercise powers of entry and inspection as provided in the section on the authority of a warrant issued by a magistrate (including as a warden) or justice in accordance with the section.

17—Amendment of section 14D—Power to gather information

The clause amends section 14D to delete the existing self-incrimination provision and clarify the consequences for a person who fails to comply with a requirement to answer a question or to provide information. New subsections (6) and (7) make it an offence with a maximum penalty of $5,000 to refuse to state a person's full name, usual place of residence and to produce evidence of the person's identity when required to do so by an authorised officer.

18—Amendment of section 14E—Production of records

This clause makes a number of consequential amendments, and extends the powers of authorised officers to retain, seize and make copies of records produced under the section.

19—Insertion of sections 14G and 14H

This clause inserts new sections as follows:

14G—Power to issue expiation notices

The proposed section enables authorised officers to give expiation notices for alleged offences which are expiable under the Act.

14H—Provisions relating to things seized

The proposed section sets out the process for dealing with things that are seized under Part 2.

20—Amendment of section 15—Power to conduct geological investigations etc

The amendments in this clause prevent geological investigations on land constituted as a wilderness protection area under the *Wilderness Protection Act 1992*, and make a number of other consequential amendments.

21—Repeal of section 15A

This repeal is consequential on the re-enactment of this provision in proposed Part 2A.

22—Insertion of Part 2A

This clause inserts a new Part as follows:

Part 2A—Mining register and information

Division 1—Mining register

15AA—The register

The proposed section provides that there is to be a mining register kept by the Mining Registrar, sets out the matters that are to be registered on the register, the circumstances in which matters must be registered and the form and manner in which the register must be kept. It is an offence with a maximum penalty of $5,000 for a tenement holder or other person who fails to meet registration requirements.

15AB—Dealings with mineral tenements

The proposed section provides that a mineral tenement or an interest in a mineral tenement (being a legal or proprietary interest) must not be transferred, assigned, sublet or be held subject to a trust, whether directly or indirectly, without the consent of the Minister. The section further sets out the consent and registration requirements for dealings with such mineral tenements and interests.

Division 2—Mortgages

15AC—Mortgages

The proposed section provides for the requirements in relation to a party to a mortgage over a mineral tenement who applies to the Mining Registrar for the registration of a mortgage, including the application requirements, requests for information from the Mining Registrar, the status of a registered mortgage, and the effect and circumstances in which the mortgage may be surrendered and discharged.

15AD—Application to court to challenge aspects of mortgages

The proposed section provides for the circumstances in which a person who has an interest in a mineral tenement subject to a registered mortgage or an interest directly affected by a registered mortgage may apply to the appropriate court for an order or declaration in relation to the mortgage, as provided in the section.

Division 3—Caveats

15AE—Caveats

The proposed section provides for the circumstances in which a person who has or is claiming an interest in a mineral tenement may apply to have a caveat registered in accordance with the Division, including the form and manner in which the caveat is to be made, the matters to which a caveat may relate, and the effect of a caveat.

15AF—Application to Warden's Court to lapse caveat or obtain compensation

The proposed section provides for the circumstances in which a person who has an interest in a mineral tenement subject to a registered caveat or an interest directly affected by a registered caveat may apply to the Warden's Court for a declaration or order in relation to the caveat as registered under the proposed Division.

Division 4—Other dealings

15AG—Other dealings

The proposed section provides for the manner and circumstances in which a tenement holder may apply to the Mining Registrar for the registration on the register of any agreement, memorandum, arrangement, instrument, document or dealing (a *registrable dealing*) relating to—

- the relevant mineral tenement or an interest in the mineral tenement; or
- authorised operations carried out, or to be carried out, on the relevant mineral tenement.

Division 5—Protection from liability

15AH—Protection from liability

The proposed section provides for the status and liability of the Mining Registrar, Minister, Director of Mines and Crown in relation to an interest, instrument, agreement, statement, notice, order, direction, bond, penalty or other document or dealing on the mining register.

Division 6—Information

15AI—Interpretation

The proposed section defines terms to be used in the proposed Division, and provides the manner in which the Director of Mines may specify information or material as designated material.

15AJ—Compilation, keeping and provision of material

The proposed section provides requirements for a tenement holder in relation to the compilation, keeping and provision of material relating to the tenement. An administrative penalty applies to any tenement holder who fails to comply with a provision of the proposed section.

15AK—Tests

The proposed section requires a tenement holder to allow testing and samples of minerals to be taken at the request of the Director or person acting under the written authority of the Director.

15AL—Release of material

The proposed section provides for the manner and circumstances in which prescribed material may be released by the Minister or Director of Mines.

23—Amendment of section 17—Royalty

Section 17 as amended by this clause will provide that, subject to the Act, royalty is payable on all minerals recovered from mineral land. An exception is made for extractive minerals in certain specified circumstances.

This clause also makes substantial changes to the manner in which the value of minerals is to be determined for the purposes of calculating royalty. Where minerals are sold pursuant to an arms length contract with a genuine purchaser, the value of the minerals for the purposes of determining royalty will be the market value on the day that ownership passes, and the market value will be the contract price. The section as amended by this clause will set out a number of alternative methods for determining market value that apply in circumstances where there is no contract with a genuine purchaser at arms length.

24—Amendment of section 17A—Reduced royalty for new mines

This clause makes consequential amendments.

25—Insertion of sections 17AB and 17AC

This clause re-enacts sections 73E and 73EA of the current Act. Those sections, which deal with payment of royalty for private mines, currently sit within Part 11B, which is to be repealed by clause 95. Provisions within current section 73E relating to enforcement of the requirement to pay royalty are not reproduced in section 17AB because Part 3 of the Act, which includes provisions relating to enforcement, will apply to private mines.

26—Substitution of section 17B

This clause repeals section 17B and substitutes a new section that broadens the circumstances in which the Treasurer may make an assessment of royalty that a person is liable to pay. In addition to the circumstances that apply currently, the Treasurer will be authorised to make an assessment if—

- there is disagreement about an estimate of the market value of minerals; or
- there is a default in furnishing a return; or
- the Treasurer is not satisfied with a return; or
- the Treasurer is of the view that there has been an underpayment or an overpayment of royalty.

If there has been an overpayment of royalty, the Treasurer is required to refund the amount of the excess to the person or set off the amount against a future liability.

27—Insertion of section 17CA

New section 17CA, inserted by this clause, is substantially similar to current section 76, which is to be repealed. The section requires a tenement holder to furnish a return twice in each year. There is also a requirement for a return to be furnished if a tenement is cancelled, suspended, transferred, forfeited or due to expire.

28—Amendment of section 17D—When royalty falls due (general principles)

The amendments made by this clause are consequential.

29—Amendment of section 17DA—Special principles relating to designated tenement holders

The amendments made by this clause are consequential.

30—Amendment of section 17E—Penalty for unpaid royalty

A penalty applies under section 17E if royalty is not paid on or by the date on which it fell due. Currently, the formula for determining the penalty refers to the loan reference rate applied by the Commonwealth Bank of South Australia. The section as amended will refer instead to the applicable market rate under section 26 of the *Taxation Administration Act 1996* on the day on which royalty fell due.

31—Substitution of section 18

Current section 18 provides that property in minerals passes to a person in consideration of payment of royalty or, if royalty is not payable, on recovery of the minerals. This clause substitutes a new section that provides that property in minerals recovered from mineral land passes to the tenement holder on the day on which a determination of the value of the minerals is made for the purposes of assessing royalty payable on the minerals under section 17. It is still the case under the new section that if royalty is not payable, property passes on recovery of the minerals. The new section also provides that the liability of a tenement holder to pay royalty to the Crown arises when the property in minerals passes to the tenement holder or the proprietor.

32—Amendment of section 20—General right to prospect for minerals

This clause makes a consequential amendment.

33—Amendment of section 21—Steps to establish a mineral claim

This clause contains amendments consequential on the insertion of common provisions in proposed Part 8B. It also amends the section to make the Mining Registrar responsible for the manner and form of an application for the establishing of a mineral claim.

34—Amendment of section 25—Rights conferred by ownership of mineral claim

This clause amends section 25(3) consequent on amendments to section 17.

35—Amendment of section 26—Mineral claim not transferable etc

This amendment is of a technical nature.

36—Amendment of section 27—Land not to be subject to successive mineral claims

A new subsection 27(2) is proposed which relate to the circumstances in which a mineral claim due to lapse is the subject of another mineral claim covering the same area. The clause also makes a number of technical amendments.

37—Substitution of sections 28 and 29

This clause substitutes sections 28 and 29 as follows:

28—Preliminary

The proposed section defines terms to be used in relation to Part 5 which makes provision for the granting of an exploration licence, including when land will be taken to be open ground or relinquished ground. The proposed section also provides for an area of land to be declared by notice to be an exploration release area, and for the circumstances in which an exploration licence may be granted by the Minister.

29—Nature of exploration licence

The proposed section sets out the operations able to be undertaken by the holder of an exploration licence.

29A—Application for exploration licence

The proposed section sets out the application process for an exploration licence, including the requirements that the applicant must meet and the manner in which the Director and Minister must consider and deal with such applications.

29B—Grant of exploration licence

The proposed section provides for the circumstances in which an exploration licence will be taken to be granted, and for the Minister to give notice of the granting of such a licence.

38—Amendment of section 30—Incidents of licence

The clause updates references in the section to refer to terms or conditions of licence (instead of just conditions). It increases the maximum penalty for the offence provided for in section 30(8) from $120,000 to $250,000.

39—Insertion of section 30AAA

This clause inserts a new section as follows:

30AAA—Expenditure

The proposed section requires a tenement holder, as a condition of an exploration licence, to achieve a level of expenditure specified in or in relation to the licence on operations carried out under the licence (an *expenditure commitment*).

The tenement holder must furnish a statement to the Minister in a manner and form, and including such information or evidence, as determined by the Minister and the requirements of the proposed section and the regulations, outlining the exploration operations to be carried out under the licence and declaring the amount of expenditure incurred and estimated to be incurred in carrying out such operations.

The proposed section allows for a tenement holder or tenement holders to amalgamate their expenditure commitments in relation to 2 or more exploration licences, and also for the deferment or variation of the amount of an expenditure commitment.

40—Amendment of section 30AA—Area of licence

The clause inserts new subsections (3) to (11) which provide for the manner and circumstances in which the holder of an exploration licence may apply to the Minister for approval to surrender a part of the area of the licence under an agreement that is intended to enable another party to the agreement to obtain a new exploration licence in relation to the land to be surrendered. The clause also provides for the manner in which the licences will be dealt with if the Minister grants such an approval.

41—Amendment of section 30A—Term and renewals of licence

The clause amends various provisions in the section to increase the maximum term for which an exploration licence may be granted from 5 years to 6 years. It also amends the section to provide for the manner in which an exploration licence may be renewed.

42—Substitution of section 30AB

This clause deletes current section 30AB which provides for a subsequent exploration licence to be granted. These provisions are now covered in the proposed amendments to section 30A allowing for renewal of an exploration licence. The proposed new section 30AB is as follows:

30AB—Excise of land for public purposes

The proposed new subsection allows the Minister, if of the opinion that land comprised in an exploration licence is required for a public purpose, to excise the land from the licence. The proposed section outlines the manner in which the Minister may undertake such a process and the rights of the tenement holder to apply to the ERD Court for compensation.

43—Amendment of section 31—Fee

The clause amends section 31 to provide that the liability to pay a fee under the section is a debt due to the Crown.

44—Repeal of sections 32 and 33

The clause repeals sections 32 and 33, which are now provided for in proposed Part 8B.

45—Insertion of section 33B

This clause inserts a new section as follows:

33B—Retention status

The proposed section outlines the manner and circumstances in which the holder of an exploration licence may apply to the Minister for retention status in relation to the licence. The section further provides for the following:

- the circumstances in which retention status may be granted;
- the requirements on the tenement holder who has been granted retention status in respect of the licence;
- the terms and conditions of the licence to which retention status applies;
- the status of land before, during and after retention status applies to the land.

46—Substitution of sections 34 to 37

The proposed sections recast and consolidate the sections to be substituted as follows:

34—Preliminary

The proposed section outlines the circumstances in which the Minister may grant a mining lease.

35—Nature of mining lease

The proposed section outlines the rights conferred under a mining lease, that mining leases may be of a prescribed class and that terms and conditions may apply to the lease.

36—Application for mining lease

The proposed section sets out the requirements for a person making an application for a mining lease.

37—Approval of application and registration

The proposed section states the circumstances in which the Minister may or may not grant a mining lease.

47—Amendment of section 38—Term and renewal of mining lease

The clause amends section 38 to consolidate, simplify and clarify the process for the renewal of a mining lease.

48—Repeal of sections 39 to 41

The repealed sections are to be re-enacted in proposed Part 8B.

49—Substitution of Parts 6A and 8

This clause substitutes Parts 6A and 8 which provide for retention leases and miscellaneous purposes licences as follows:

Part 7—Retention leases

42—Preliminary

The proposed section outlines the persons to whom a retention lease may be granted and the requirements and limitations on the type of person and stratum to which the licence may relate.

43—Nature of retention lease

The proposed section sets out the cases in which a retention lease may be granted, and the rights that such a lease, if granted, confers on the holder of the lease, and that the lease is to be subject to terms and conditions as may be prescribed and as may be specified by the Minister in the lease.

44—Application for retention lease

The proposed section sets out the requirements for a person applying for a retention lease, including the requirement for the application to be accompanied by a retention proposal setting out the nature of the operations to be carried out under the lease and the environmental impacts.

45—Approval of application and registration

The proposed section states the circumstances in which the Minister may or may not grant a retention lease.

46—Term and renewal of retention lease

The proposed section sets out the term for which a retention lease may be granted and the manner in which the holder of a retention lease may apply for renewal of the lease.

Part 8—Miscellaneous purposes licences

47—Preliminary

The proposed section sets out the circumstances in which the Minister may grant a miscellaneous purposes licence.

48—Nature of miscellaneous purposes licence

The proposed section provides that a miscellaneous purposes licence is to be granted for ancillary operations and that the Minister may limit the scope of operations under the licence by terms and conditions to which the licence is subject.

49—Application for miscellaneous purposes licence

The proposed section outlines the process by which a person may apply for a miscellaneous purposes licence.

50—Approval of application and registration

The proposed section outlines the circumstances in which the Minister must not grant a miscellaneous purposes licence, and that the licence will be taken to be granted by the Minister when registered.

51—Term and renewal of miscellaneous purposes licence

The proposed section provides for the term for which a miscellaneous purposes licence may be granted, and outlines the process by which a miscellaneous purposes licence may be renewed.

50—Substitution of section 56B

This clause substitutes section 56B as follows:

56B—Special mining enterprises

The proposed section defines a special mining enterprise, and provides for the manner in which an agreement is to be made between a proponent and the Minister prior to an application under Part 8A being made, and the sections of the Act that are to apply to such an application.

56BA—Concept phase

The proposed section outlines the first step that a proponent seeking special mining enterprise status must undertake, namely to consult with the Director of Mines about the proposal in a manner set out in the section. The Director may then bring the consultation to an end by advising the proponent that the matter may proceed to an application to the Minister under Part 8A, or that the matter is not, in the opinion of the Director, suitable for further consideration. The effect of this is that the proponent is then not entitled to make an application to the Minister under the Part.

56BB—Application phase

The proposed section outlines the manner and form of an application to the Minister under Part 8A and the process by which the Minister must consider the application.

51—Amendment of section 56C—Power to exempt from or modify Act

The clause amends section 56C to provide that the following sections cannot be exempted or modified by agreement as contemplated by the section:

- sections 9 and 9AA;
- section 61;
- Part 9B;
- any other provisions specified by the regulations.

The clause also increases the maximum penalty for failure to comply with a condition of an exemption or a modification under the section from $50,000 to $250,000.

52—Amendment of section 56D—Existing tenements

This clause makes a technical amendment.

53—Insertion of Part 8B

This clause inserts a new Part as follows:

Part 8B—Common provisions

Division 1—Identifying areas and considering applications

56E—Identification of areas

The proposed section outlines the manner in which an area to which the section applies is to be identified, delineated or defined, including in accordance with any manner or form determined or approved by the Mining Registrar. The section applies in relation to the following:

- establishing a mineral claim;
- an application for an exploration licence;
- an application by the holder of an exploration licence for retention status in relation to the licence;
- an application for a mining lease, retention lease or miscellaneous purposes licence;
- a registered mineral tenement.

56F—Related environmental legislation

The proposed section provides that if an application to which the section applies relates to an area within the Murray-Darling Basin, the Minister must, in considering the application, take into account the objects of the *River Murray Act 2003* and the *Objectives for a Healthy River Murray* under that Act. The section applies to the following:

- an application for an exploration licence, mining lease, retention lease, miscellaneous purposes licence or for the renewal of such a lease or licence;
- in relation to an exploration licence after it has been granted—an application to revise the program that applies in relation to the licence under Part 10A so as to authorise the use of declared equipment.

56G—Specially protected areas

The proposed section provides for applications to which the section applies relating to an area within or adjacent to a specially protected area to be referred by the Minister to the relevant Minister for consideration, and for the referral of the matter to the Governor for determination if the Minister and the relevant Minister cannot agree. The section applies to the following:

- an application for an exploration licence, mining lease, retention lease, miscellaneous purposes licence or for the renewal of such a lease or licence;
- in relation to an exploration licence after it has been granted—an application to revise the program that applies in relation to the licence under Part 10A so as to authorise the use of declared equipment.

Division 2—Notice

56H—Notice

The proposed section provides for the manner in which the Minister must give notice of an application to which the section applies before granting such applications. The section applies to an application for a mining lease, retention lease (unless exempt by the regulations), miscellaneous purposes licence or an application under Part 8B Division 7 (to the extent that the requirements of that Division are applied by the regulations).

Division 3—Terms and conditions

56I—Matters to be considered

The proposed section sets out the matters to which the Minister must give proper consideration in determining the terms and conditions subject to which a mining lease, retention lease or miscellaneous purposes licence is to be granted.

56J—Alteration of terms and conditions

The proposed section sets out the manner in which the terms and conditions of a mining lease, retention lease or miscellaneous purposes licence may be added to, varied or revoked by the Minister, and the circumstances in which the holder of a mineral tenement must be consulted or may appeal to the ERD Court in relation to such an addition, variation or revocation.

56K—Special term or condition relating to extractive minerals

The proposed section provides that the terms or conditions of a mineral tenement may make provision for the management and use of extractive minerals, and the exemption of those extractive minerals from the payment of royalty.

56L—Offence to contravene terms or condition

The proposed section creates an offence with a maximum penalty of $250,000 for a person to contravene or fail to comply with a term or condition of a mineral tenement.

Division 4—Rental

56M—Rental

The proposed section provides for the manner and circumstances in which rental is payable in relation to a mining lease, retention lease or a miscellaneous purposes licence.

56N—Debt payable to Crown

The proposed section provides that the liability to pay any rental under the proposed division is a debt due to the Crown.

Division 5—Rectification of boundaries

56O—Rectification of boundaries

The proposed section outlines the manner and circumstances in which the Mining Registrar may vary the boundaries or delineation of a mineral tenement.

Division 6—Amalgamation of areas

56P—Amalgamation of areas

The proposed section provides for the manner in which the Minister may, on application by a tenement holder or by agreement with a tenement holder, amalgamate the areas of 2 or more mineral tenements.

Division 7—Change in operations

56Q—Preliminary

The proposed section provides that a change in authorised operations under a mining lease, retention lease or a miscellaneous purposes licence of a kind outlined in the section must not be made without the approval of the Minister, with a maximum penalty of $250,000.

56R—Application

The proposed section outlines the manner in which an application for an approval is to be made under the proposed Division.

56S—Consultation

The proposed section provides that the Minister must undertake consultation in a manner outlined in the section in relation to an application under the proposed Division.

56T—Consideration of proposal

The proposed section outlines the considerations that must be undertaken before a change under the Division is approved by the Minister.

56U—Terms and conditions

The proposed section provides the circumstances in which the Minister may, at the time of granting an approval under the proposed Division, add, vary or revoke a term or condition of the relevant mineral tenement, and the matters to which the Minister must give proper consideration in adding, varying or revoking such a term or condition.

56V—Registration

The proposed section provides that if the Minister decides to approve an application under the proposed Division, it will be taken to be granted when the approval is registered on the Mining Register.

Division 8—Cancellation and suspension

56W—Cancellation and suspension—action by Minister

The proposed section outlines the process and circumstances in which the Minister may cancel or suspend an exploration licence, mining lease, retention lease or miscellaneous purposes licence.

56X—Surrender on application

The proposed section outlines the manner in which a tenement holder may apply to the Minister for an approval to surrender a mineral tenement, or a part of the area of a mineral tenement, and how such a surrender will be taken to be approved.

Division 9—Reinstatement of tenement

56Y—Reinstatement of tenement

The proposed section sets out a scheme by which the Minister may renew a mining lease, retention lease, miscellaneous purposes licence or (if the regulations so provide) an exploration lease that has expired under another provision of the Act.

Division 10—Assessment reports

56Z—Assessment reports

The proposed section provides that the Minister may prepare a report (an *assessment report*) under the proposed section that sets out or includes the Minister's assessment in respect of matters set out in the section. The section further provides for the manner in which the assessment report is to be dealt with.

54—Amendment of section 57—Entry on land

The proposed clause makes amendments consequential on other provisions in the measure.

55—Amendment of section 58—How entry on land may be authorised

The proposed clause makes amendments consequential on other provisions in the measure.

56—Substitution of section 58A

The clause substitutes section 58A as follows:

58A—Notice requirements

The proposed section recasts the current section 58A which provides for the manner and circumstances in which a person intending to prospect for minerals under section 20 or the holder of an exploration licence or a mineral claim must give notice to the owner of land before entering the land to carry out authorised operations. The proposed section further provides for the circumstances in which an owner of land may object to the entry on the land by the person or to the use of the land for authorised operations.

57—Repeal of section 59

The clause repeals section 59 which dealt with the authorisation of the use of declared equipment, which is now to be undertaken as part of the program under Part 10A.

58—Amendment of section 61—Compensation

This clause makes a number of amendments consequential on other changes in the measure.

59—Amendment of section 62—Bond and security

Subclauses (1) to (5) make a number of amendments consequential on other changes in the measure. Subclause (6) recasts the current subsections (4), (5) and (6) to update the provisions, increases the maximum penalties from $120,000 to $150,000 and adds further provisions to clarify that liability to pay an amount of bond paid under the section is a debt due to the Crown.

60—Insertion of section 62AA

This clause inserts a new section as follows:

62AA—Mining Rehabilitation Fund

The proposed section provides for the Minister to establish a fund entitled the Mining Rehabilitation Fund and outlines the following matters:

- amounts that will be paid into the fund;
- the manner in which those amounts are to be paid;
- the circumstances in which the Minister may require a tenement holder to pay an amount into the fund;
- the purposes for which money standing to the credit of the fund may be used by the Minister;
- power for the Minister, Director of Mines or a person authorised in writing by the Minister or Director to enter land and carry out tests or work for the purpose of carrying out operations associated with using fund money for a specified purpose, making it an offence for a person to interfere with or obstruct such a person in the exercise of such a power.

61—Amendment of section 62A—Right to require acquisition of land

This clause makes amendments of a consequential nature.

62—Amendment of section 63—Extractive Areas Rehabilitation Fund

This clause makes amendments of a consequential nature.

63—Repeal of Part 9A

This clause repeals Part 9A.

64—Amendment of section 63F—Qualification of rights conferred by exploration authority

This clause makes amendments of a consequential nature.

65—Amendment of section 63K—Types of agreement authorising mining operations on native title land

This clause makes amendments of a consequential nature.

66—Amendment of section 63L—Negotiation of agreements

This clause makes amendments of a consequential nature.

67—Amendment of section 63N—What happens when there are no registered native title parties with whom to negotiate

This clause makes amendments of a consequential nature.

68—Amendment of section 63O—Expedited procedure where impact of operations is minimal

This clause increases the period during which a notice may be given under Part 9B Division 4 from 2 months to 4 months.

69—Amendment of section 63R—Effect of registered agreement

This clause makes amendments of a consequential nature.

70—Amendment of section 63S—Application for determination

The clause amends section 63 to substitute the definitions of *relevant period* for the purposes of subsections (1) and (4) to refer consistently to a period of 6 months.

71—Amendment of section 63V—Effect of determination

This clause makes an amendment of a consequential nature.

72—Amendment of section 63ZB—Review of compensation

This clause makes an amendment of a consequential nature.

73—Amendment of section 63ZBA—Mining Native Title Register

The clause increases the maximum penalty for an offence against subsection (7) from $10,000 to $50,000.

74—Substitution of heading to Part 10

This clause substitutes the heading to Part 10 as follows:

Part 10—Warden's Court—general provisions

75—Amendment of section 64—Establishment of Warden's Court

This clause inserts a new subsection (1a) which provides that the jurisdiction of the Warden's Court will be such jurisdiction as conferred by or under this or any other Act or contemplated by this or any other Act.

76—Amendment of section 65—Powers etc of Warden's Court

This clause proposes amendments to section 65 that will give the Warden's Court the powers and authorities of the Magistrates Court. However, the Warden's Court will not have a power or authority of the Magistrates Court that is prescribed for the purposes of the section. Under the section as amended, additional powers and authorities may also be prescribed.

77—Amendment of section 66—Rules of Warden's Court

The clause amends subsection (1) to provide that the rules of the Warden's Court are to be made by the Senior Warden, being a warden nominated by the Attorney-General to be the senior warden of the Warden's Court.

78—Amendment of section 67—Jurisdiction relating to tenements and monetary claims

The clause amends section 67(1a) to increase the jurisdictional limit on claims to be heard in the Warden's Court from $100,000 to $150,000. The clause makes further amendments of a consequential nature.

79—Repeal of section 69

This clause deletes section 69.

80—Amendment of section 70—Forfeiture and transfer of mineral tenement

The clause amends section 70 significantly to clarify the circumstances in which the Warden's Court may, on application under the section, adjudge that a mineral tenement to which the section applies is liable to forfeiture and recommend to the Minister that the tenement be forfeited. The section applies in relation to a mineral claim, an exploration licence (if the regulations so provide), a mining lease or a retention lease. The clause further allows the regulations to provide for matters associated with making an application under the section, and makes amendments of a consequential nature.

81—Amendment of section 70A

This clause makes amendments of a consequential nature.

82—Amendment of section 70B—Preparation or application of program

The clause amends the manner in which programs under Part 10A are to be submitted, and also makes a number of amendments of a consequential nature.

83—Amendment of section 70C—Review of programs

The clause makes amendment to the review of program provisions to provide for additional circumstances in which a program must be reviewed. The clause also makes amendments of a consequential nature.

84—Substitution of section 70D

This clause deletes section 70D and inserts a new section as follows:

70D—Audit of program

The proposed section requires a tenement holder to carry out tests, environmental monitoring or other investigations (a *program audit*) in relation to authorised operations carried out under the relevant mineral tenement. The tenement holder must comply with the requirements or outcomes as determined by the program audit to the satisfaction of the Minister. The section allows the Minister to provide directions regarding a program audit, which must be carried out in accordance with the provisions of the proposed section.

70DA—Related matters

The proposed section recasts current section 70D, clarifying offence provisions and increasing the maximum penalties from $120,000 to $250,000.

85—Substitution of heading to Part 10B

This clause substitutes the heading to Part 10B as follows:

Part 10B—Compliance and enforcement

86—Amendment of section 70E—Power to direct tenement holders to take action to prevent or minimise environmental harm

The clause makes amendment to the section to remove the ability of an authorised officer to issue an environmental direction that is urgently necessary (which is now to be incorporated into a new provision permitting authorised officers to issue emergency directions—see proposed section 70FB), inserts into subsection (3) more detailed requirements in relation to a direction relating to testing and monitoring, and makes a number of other consequential amendments.

87—Amendment of section 70F—Power to direct rehabilitation of land

The clause clarifies the requirements in section 70F(6) that a rehabilitation direction may be issued at any time including after a mineral tenement has expired or been cancelled, and makes a number of other consequential amendments to the section.

88—Insertion of sections 70FA, 70FB and 70FC

This clause inserts new sections as follows:

70FA—Compliance directions

The proposed section allows the Minister to issue a compliance direction for the following purposes:

- securing compliance with a requirement under the Act, a mineral tenement or any authorisation or direction under or in relation to a mineral tenement;
- preventing or bringing to an end specified operations that are contrary to the Act or a mineral tenement (including a term or condition of a mineral tenement);
- preventing or rehabilitating land on account of any authorised operations carried out without an authority required by the Act.

The compliance direction must be given in a manner and form outlined in the proposed section. It is an offence with a maximum penalty of $250,000 for a person to fail to comply with a compliance direction within the time allowed in the direction.

70FB—Emergency directions

The proposed section provides for the circumstances in which an authorised officer may issue a direction (an *emergency direction)* to a person involved in undertaking authorised operations. Such circumstances include if, in the opinion of the authorised officer, it is urgently necessary to take action as authorised operations are being carried out in a way that results in, or that is reasonably likely to result in

undue damage to the environment, a breach of an environmental outcome under a Part 10A program or a breach of a term or condition of a mineral tenement.

The proposed section further provides for the manner in which an emergency direction may be issued, the term and duration of the direction and the manner in which a direction may be varied or revoked. It is an offence with a maximum penalty of $250,000 for a person to whom an emergency direction relates to fail to comply with the direction within the time allowed in the direction.

70FC—Contravention of Act

The proposed section provides that the Minister or an authorised officer may, if of the opinion that it is reasonably necessary to do so in the circumstances, include in a direction under the Part requiring an act or omission that might otherwise constitute a contravention of the Act and, in that event, a person incurs no liability to a penalty under the Act for compliance with the requirement.

89—Amendment of section 70G—Application for review of direction

The clause makes amendments consequential on the insertion of the sections proposed in clause 88.

90—Amendment of section 70H—Action if non-compliance occurs

The clause makes amendments consequential on the insertion of the sections proposed in clause 88.

91—Insertion of sections 70HA and 70HB

This clause inserts new sections as follows:

70HA—Restriction of claims

The proposed section provides that the Warden's Court may make orders restricting claims under the Act until the requirements of a direction under Part 10B have been complied with.

70HB—Self-incrimination

The proposed section makes provision for the grounds on which a person may refuse to provide information required by or under a direction under Part 10B if to do so might tend to incriminate the person or make them liable to a penalty.

92—Insertion of Part 10C

This clause inserts a new Part as follows:

Part 10C—Offences and penalties

70HC—Penalty for illegal mining

The proposed section sets out the offence of illegal mining.

70HD—Obstruction of person authorised to mine etc

The proposed section sets out the offence of obstructing or hindering the holder of a mineral tenement in the reasonable exercise of rights conferred under the Act.

70HE—Civil penalties

The proposed section sets out a scheme for the imposition of civil penalties as an alternative to undertaking criminal proceedings against a person who has committed an offence under, or contravened a provision of, the Act.

70HF—Additional orders on conviction

The proposed section provides for additional orders that the court may make in relation to a person who is convicted of an offence against the Act.

70HG—Continuing offences

The proposed section provides for the manner and circumstances in which a person convicted of an offence against the Act in respect of a continuing act or omission may be liable to further and ongoing penalties for each day during which the act or omission continues.

70HH—Offences by bodies corporate

The proposed section provides for the circumstances in which a director of a body corporate may be guilty of offences against the Act for which the body corporate is found guilty.

70HI—Time limits

The proposed section sets out the time limits for commencement of criminal proceedings under the Act.

70HJ—Summary offences

The proposed section provides that all offences under the Act are to be classified as summary offences.

70HK—Evidentiary provisions

The proposed section provides certain evidentiary provisions for the purposes of the Act .

93—Amendment of section 71—Minister may assist in conduct of operations

This clause makes a consequential amendment.

94—Amendment of section 72—Research and investigations

This clause makes a consequential amendment.

95—Repeal of Parts 11A and 11B

This clause repeals Parts 11A and 11B of the Act.

96—Substitution of sections 74 and 74AA

This clause substitutes sections 74 and 74AA as follows:

74—Civil remedies

The proposed section provides for the circumstances in which the Minister or the Director of Mines may make application to the ERD Court for various orders as provided in the section in respect of the following persons:

- a person who has engaged, is engaging or is proposing to engage in conduct in contravention of the Act;
- a person who has refused or failed, is refusing or failing or is proposing to refuse or fail to take any action required by the Act;
- a person who has suffered injury or loss or damage to property as a result of a contravention of the Act, or incurred costs and expenses in taking action to prevent or mitigate such injury, loss or damage.

The proposed section further provides for the manner in which the Court may deal with such orders.

74AA—Enforceable voluntary undertakings

The proposed section provides for the Minister to accept a written undertaking from a person in connection with a matter relating to a contravention or alleged contravention by the person of the Act, and for a penalty to apply and powers for the ERD Court to make orders in respect of a person who contravenes the undertaking.

97—Amendment of section 74A—Compliance orders

This clause makes a consequential amendment.

98—Amendment of section 75—Provision relating to certain minerals

The clause makes an amendment to provide for the circumstances in which a claim, lease or mineral tenement is not required under the Act for the recovery of extractive minerals from land.

99—Amendment of section 75A—Avoidance of double compensation

This clause makes a technical amendment.

100—Repeal of sections 76 to 77D

The section repeals sections 76 to 77D (inclusive) consequent on the recasting and relocation of these provisions in proposed Part 8B.

101—Amendment of section 78—Persons under 16 years of age

This clause makes consequential amendments.

102—Amendment of section 79—Minister may grant exemptions

This clause makes consequential amendments.

103—Substitution of section 79A

This clause deletes section 79A (which is obsolete) and substitutes the following:

79A—False or misleading information

The proposed section makes it an offence with a maximum penalty of $150,000 for a person who furnishes information to the Minister, the Director, the Mining Registrar or any other person involved in the administration of the Act that is false or misleading in a material particular.

104—Amendment of section 80—Conditions under which land may be simultaneously subject to more than 1 tenement

The clause makes a number of amendments consequential on other amendments in the measure, and increases the maximum penalty for the offence in subsection (1d) from $5,000 to $20,000.

105—Substitution of sections 81, 82 and 83

This clause substitutes sections 81, 82 and 83 as follows:

81—Additional provisions relating to liability

The proposed section provides for joint and several liability of each tenement holder in circumstances where there are 2 or more tenement holders in relation to the same mineral tenement.

82—Deemed consent or agreement

The proposed section provides for deemed consent or agreement between an owner of land and a tenement holder in circumstances where the owner of land and the tenement holder are the same person.

106—Repeal of sections 84 and 84A

This clause repeals obsolete sections.

107—Substitution of sections 85 and 86

This clause substitutes sections 85 and 86 as follows:

85—Charge on property if debt due to Crown

The proposed section makes provision in relation to the creation of a charge on property if the owner of the property is liable to pay a debt due to the Crown under the Act.

86—Removal of machinery etc

The proposed section recasts and updates the current provision in relation to removal of machinery on land that is within a mineral tenement that has been transferred or that has ceased to be subject to a mineral tenement.

108—Substitution of sections 88 and 89

This clause substitutes sections 88 and 89 as follows:

88—Hindering authorised officers

The proposed section updates and consolidates the offences formerly contained in sections 88 and 89 of the Act.

109—Insertion of section 89A

The clause inserts a new section as follows:

89B—Penalties and expiation fees payable into fund

The proposed section provides that penalties payable in respect of offences against the Act and expiation fees paid under the Act are payable into the Mining Rehabilitation Fund.

110—Substitution of section 90

This clause deletes section 90 (the content of which is relocated elsewhere in the measure) and substitutes the following:

90—Reports and verification of information

The proposed section provides for the manner and circumstances in which a tenement holder must provide a report, at the request of the Minister, setting out or accompanied by information or material relevant to matters set out in the section. A tenement holder is liable to a maximum penalty of $20,000 for failure to comply with a requirement under the section within the period specified by the Minister.

111—Amendment of section 91—Administrative penalties

The clause amends the section to allow the Director of Mines (instead of the Minister) to impose an administrative penalty on a person, and to issue a penalty notice without prior consultation with the person and without the need to give a warning or any prior notice in relation to the matter. The level of administrative penalty is increased

from a maximum of $10,000 to a maximum of $15,000. Any such penalty recovered will be paid into the Mining Rehabilitation Fund.

112—Substitution of section 91A

This clause substitutes section 91A as follows:

91A—Revocation of private mine

The proposed section re-enacts and updates a provision deleted as a consequence of the repeal of Part 11B in relation to private mines.

91B—Power to correct errors in private mine declarations

The proposed section re-enacts and updates a provision deleted as a consequence of the repeal of Part 11B in relation to private mines.

113—Amendment of section 92—Regulations

The clause amends section 92 to update and include provisions in relation to the circumstances in which the Governor may make regulations as a result of the measure.

114—Amendment of Schedule

This amendment is consequential.

115—Renumbering

This is a technical amendment allowing for the renumbering of the provisions of the Act after all provisions in Part 2 of the measure have been brought into operation.

Part 3—Amendment of *Opal Mining Act 1995*

116—Amendment of section 3—Interpretation

The clause amends various definitions, and inserts new definitions to support provisions in the measure.

117—Amendment of section 6—Restricted land

The clause makes amendments to change all the references to 'exempt land' to 'restricted land', makes a number of amendments to ensure consistency with amendments made to the *Mining Act 1971* in the measure, and makes other consequential amendments.

118—Amendment of section 7—Application for permit

These amendments update the manner in which an application for a permit may be made, and change references to 'a mining registrar' to 'an opal mining registrar'.

119—Amendment of section 8—Nature of permit

This clause substitutes the penalty in section 8(4) with an administrative penalty as provided for in the measure.

120—Amendment of section 9—Terms and renewal of permit

These amendments update the manner in which the terms and renewal of precious stones permits may be made, and change references from 'mining registrar' to 'opal mining registrar'.

121—Amendment of section 10—Rights of holder of permit

This clause amends the section to extend the prohibition on residing on precious stones fields other than in the Mintabie township lease area.

122—Amendment of section 10A—Special provisions in relation to Mintabie precious stones field

The clause makes a number of amendments consequential on the amendments in clause 121 and further consequential amendments related to the change of reference from 'mining registrar' to 'opal mining registrar'.

123—Amendment of section 11—Qualifications to permits

The clause makes a number of amendments consequential on the change of reference from ''exempt land' to 'restricted land' and changes of reference from 'Mining Registrar' to 'Opal Mining Registrar'. Subclause (2) inserts a new subsection that provides that a precious stones prospecting permit does not authorise the pegging out of an area that is not either wholly within, or wholly outside, a precious stones field.

124—Amendment of section 15—Effect of pegging an area

This amendment is consequential on the amendment in clause 123.

125—Amendment of section 16—Ballot may be conducted in certain cases

This clause makes consequential amendments related to the change of reference from 'mining registrar' to 'opal mining registrar'. The clause also updates the penalty provisions currently in subsection (9) to include an administrative penalty for pegging out an area for a precious stones tenement in contravention of the section.

126—Substitution of section 18

This clause substitutes section 18 as follows:

18—Contravention of Part

The proposed section recasts current section 18 to update penalties and insert administrative penalties for certain offences under the section.

127—Amendment of section 18A—Special conditions for tenements in relation to Mintabie precious stones field

The clause makes amendments consequential on the amendments in clause 121.

128—Amendment of section 19—Application for registration of tenement

This clause makes amendments of a consequential and technical nature.

129—Amendment of section 19A—Special provision related to application for and registration of tenements on Mintabie precious stones field

This clause makes a number of consequential amendments related to the change of reference from 'Mining Registrar' to 'Opal Mining Registrar'.

130—Amendment of section 20—Registration of tenement

This clause makes a number of consequential amendments related to the change of reference from 'Mining Registrar' to 'Opal Mining Registrar', and, in subclause (10), makes a technical amendment.

131—Amendment of section 22—Term and renewal of tenement

These amendments update the manner in which the terms and renewal of precious stones permits may be made, and change references from 'Mining Registrar' to 'Opal Mining Registrar'.

132—Amendment of section 23—Rights conferred by a tenement

The clause inserts a new subsection (3) to provide that it is a condition of every registered precious stones claim and every registered opal development lease that the holder of the claim or lease (being a holder who is a natural person) must not reside on the land comprising the claim or lease other than in the Mintabie township lease area in accordance with a licence issued under section 29D of the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*, or as otherwise allowed under that Act.

133—Amendment of section 25—Unlawful entry on tenement

This clause updates the penalty provision in section 25(1).

134—Substitution of section 26

This clause substitutes section 26 as follows:

26—Caveats

The proposed section provides for the circumstances in which a person who has or is claiming an interest in a matter relevant to the registration of a tenement may apply to have a caveat registered in accordance with the section, which includes the form and manner in which the caveat is to be made, the matters to which a caveat may relate, and the effect of a caveat.

26A—Application to Warden's Court to lapse caveat or obtain compensation

The proposed section provides for the circumstances in which a person who has an interest in a tenement subject to a registered caveat or an interest directly affected by a registered caveat may apply to the Warden's Court for a declaration or order in relation to the registered caveat.

135—Amendment of section 27—Power of Opal Mining Registrar to cancel tenement

This clause makes a number of consequential amendments related to the change of reference from 'Mining Registrar' to 'Opal Mining Registrar'.

136—Insertion of section 27A

This clause inserts a new section 27A:

27A—Cancellation and suspension

The proposed section provides for the circumstances and manner in which in which the Opal Mining Registrar may cancel or suspend a precious stones tenement if the tenement holder contravenes or fails to comply with a term or condition of the tenement or a provision of the Act.

137—Amendment of section 28—Surrender of tenement, removal of posts etc

This clause makes a number of consequential amendments related to the change of reference from 'Mining Registrar' to 'Opal Mining Registrar' and on the amendments in clause 123.

138—Substitution of section 29

This clause substitutes section 29 as follows:

29—Removal of machinery

The proposed section recasts and updates the current provision in relation to removal of machinery on land that has ceased to be subject to a tenement.

139—Amendment of section 30—Maintenance of posts

The proposed section provides for an administrative penalty for the offence in the section.

140—Amendment of section 32—Notice of entry

The clause makes a consequential amendment updating the reference from 'Mining Registrar' to 'Opal Mining Registrar', and an amendment updating the penalty provision in section 32(7).

141—Amendment of section 33—Duration of notice of entry

The clause amends section 33(1) to provide that a notice of entry remains in force for a period of 12 months instead of 6 months.

142—Amendment of section 34—Use of declared equipment

The clause updates the penalty provisions in section 34 and makes an amendment updating the reference from 'Mining Registrar' to 'Opal Mining Registrar'.

143—Amendment of section 35—Rehabilitation of land

The clause updates the penalty provisions in the section and makes a consequential amendment.

144—Insertion of sections 35A and 35B

This clause inserts new sections 35A and 35B:

35A—Compliance directions

The proposed section allows the Minister to issue a compliance direction for the following purposes:

- securing compliance with a requirement under the Act, a tenement or any authorisation or direction under or in relation to a tenement;
- preventing or bringing to an end specified operations that are contrary to the Act or a tenement (including a term or condition of a tenement);
- requiring rehabilitation of land on account of any operations carried out without an authority required by the Act;
- requiring the taking of any action that, in the opinion of the Minister, is required to ensure public safety.

The compliance direction must be given in a manner and form outlined in the proposed section. It is an offence with a maximum penalty of $250,000 if a person fails to comply with a compliance direction within the time allowed in the direction.

35B—Contravention of Act

The proposed section provides that the Minister or an authorised officer may, if of the opinion that it is reasonably necessary to do so in the circumstances, include in a direction under the Part a requirement for an act or omission that might otherwise constitute a contravention of the Act and, in that event, a person incurs no liability to a penalty under this Act for compliance with the requirement.

145—Amendment of section 36—Bonds

The clause makes consequential amendments updating references from 'Mining Registrar' to 'Opal Mining Registrar', updates penalty provisions and makes another amendment consequential on the amendment in clause 123.

146—Amendment of section 37—Application of bonds

This clause makes a consequential amendment updating references from 'Mining Registrar' to 'Opal Mining Registrar'.

147—Amendment of section 42—Content of an agreement

This amendment is consequential on the amendments in clause 117.

148—Amendment of section 43—Registration of agreement

This clause makes a number of consequential amendments updating references from 'Mining Registrar' to 'Opal Mining Registrar'.

149—Amendment of section 44—Agreement may be varied or revoked

This clause makes a number of consequential amendments related to the change of reference from 'Mining Registrar' to 'Opal Mining Registrar'.

150—Amendment of section 45—Appeal to Warden's Court

This clause makes a consequential amendment to update the reference to 'Mining Registrar' to 'Opal Mining Registrar'.

151—Amendment of section 49—Qualification of rights conferred by permit

The clause amends section 49(1) to provide that a precious stones prospecting permit confers no right to carry out mining operations on native title land unless an indigenous land use agreement registered under the *Native Title Act 1993* of the Commonwealth provides that statutory rights to negotiate are not intended to apply in relation to the mining operations.

152—Amendment of section 50—Limits on grant of tenement

The clause amends section 50 to provide that a precious stones tenement may not be registered over native title land unless an indigenous land use agreement registered under the *Native Title Act 1993* of the Commonwealth provides that statutory rights to negotiate are not intended to apply in relation to the mining operations.

153—Amendment of section 51—Applications for tenements

The clause makes a consequential amendment updating the reference to 'Mining Registrar' to 'Opal Mining Registrar'.

154—Amendment of section 59—Agreement

This clause makes consequential amendments updating references from 'Mining Registrar' to 'Opal Mining Registrar'.

155—Amendment of section 64—Effect of determination

This clause makes a consequential amendment updating the reference to 'Mining Registrar' to 'Opal Mining Registrar'.

156—Amendment of section 70A—Opal Mining Native Title Register

The clause substitutes subsection (1) to provide that the Opal Mining Registrar must establish a distinct part of the opal mining register (which may be referred to as the *Opal Mining Native Title Register*) for the registration of agreements and determinations under Part 7. The clause makes a number of amendments consequential on proposed subsection (1) and updates the penalty provision in subsection (7).

157—Amendment to section 72—Jurisdiction relating to tenements and monetary claims

The clause updates the penalty provision in subsection (2a) and makes a number of other consequential amendments updating references from 'Mining Registrar' to 'Opal Mining Registrar'.

158—Insertion of section 75A

This clause inserts section 75A:

75A—Opal Mining Registrar

The proposed section provides for there to be an Opal Mining Registrar and other opal mining registrars who are to be Public Service employees, and sets out the powers of delegation of such officers.

159—Amendment of section 76—Opal Mining Register

The clause amends section 76 to provide that the Opal Mining Registrar must keep a register (the *opal mining register*) in accordance with the requirements set out in the section.

160—Amendment of section 77—Appointment of authorised persons

The clause updates penalty provisions in the section, and makes a number of other amendments to bring the appointment and powers of authorised persons into line with the powers of authorised officers under the *Mining Act 1971*.

161—Amendment of section 79—Exemptions

The clause substitutes subsection (1) to provide for the circumstances in which the Minister, if satisfied that it is justifiable to do so, may exempt the holder of a tenement from the obligation to comply with a term or condition of the tenement or a provision of the Act (except Part 7).

162—Amendment of section 82—Offences

The clause updates the penalty provisions for offences as outlined in the section.

163—Amendment of section 84—Prohibition orders

The clause updates the penalty for the offence in subsection (5).

164—Amendment of section 85—Power of Opal Mining Registrar to require pegs be removed

The clause makes consequential amendments to update references from 'Mining Registrar' to 'Opal Mining Registrar'.

165—Repeal of section 86

The repeal of section 86 is consequential on the enactment of proposed section 35A by clause 144.

166—Amendment of section 87—Evidentiary provision

The clause makes a number of amendments consequential on taking into account other amendments in the measure.

167—Amendment of section 89—Disposal of waste

The clause updates the penalty provisions in the section.

168—Repeal of section 91

The clause repeals an obsolete section.

169—Amendment of section 93—Interaction with Mining Act

The clause makes amendments consequential on amendments in Part 2 of the measure, and updates the penalty provisions in the section.

170—Insertion of section 98A

This clause inserts a new section:

98AA—Administrative penalties

The proposed section provides for an administrative penalty to apply to a provision of the Act (of an amount not exceeding $15,000 prescribed by the regulations in relation to the relevant provision) and the circumstances and manner in which such a penalty may be imposed.

171—Amendment of section 99—Regulations

The clause provides for further powers of the Governor to make regulations for the purposes of the Act.

Part 4—Amendment of *Mines and Works Inspection Act 1920*

172—Amendment of section 4—Interpretation

Subclause (1) deletes the definition of *manager*, as all references in the Act to 'manager' are to be deleted. Subclause (2) amends the definition of *mining operation* to limit it to mining operations in respect of which the Act applies.

173—Substitution of section 5

This clause substitutes section 5 as follows:

5—Application of Act

The proposed section provides that the Act applies in respect of the following operations:

- operations undertaken under the Indenture under the *Roxby Downs (Indenture Ratification) Act 1982*;

- operations under the Indenture under the *Whyalla Steel Works Act 1958*;
- operations by a person to whom a sale or lease of any seam of coal vested in the Crown at or near Leigh Creek has been made or granted by or on behalf of the Crown (including any successors at law of such a person) as authorised under section 48(1) of the *Electricity Corporations Act 1994*;
- operations by a person authorised under section 48(2) or (3) of the *Electricity Corporations Act 1994* to mine any seam of coal vested in the Crown or SAGC, at or near Leigh Creek.

174—Amendment of section 8—Disqualification for office of inspector

These amendments are consequential on removal of references to 'manager' in the measure.

175—Amendment of section 10—Power of inspector on inspection

These amendments are consequential on removal of references to 'manager' in the measure.

176—Amendment of section 12—Miners' inspectors

These amendments are consequential on removal of references to 'manager' in the measure, and replaces the references with 'owner'.

177—Amendment of section 13—Obstructing or refusing to assist inspector

These amendments are consequential on removal of references to 'manager' in the measure.

178—Substitution of section 16

This clause substitutes section 16 as follows:

16—Notice

The proposed section updates the current notice provision in the Act in line with current drafting standards.

179—Amendment of section 20—Imprisonment for wilful neglect

These amendments are consequential on removal of references to 'manager' in the measure.

180—Amendment of section 22—General provisions as to proceedings for offences

These amendments are consequential on removal of references to 'manager' in the measure.

181—Amendment of Schedule—Subject matter of regulations

These amendments are consequential on removal of references to 'manager' in the measure.

Schedule 1—Transitional provisions

Part 1—Transitional provisions—*Mining Act 1971*

This Part contains a number of transitional provisions consequent on the enactment of provisions in the measure dealing with the following:

- waiver of exemptions;
- references to mining operations in other Acts;
- registers;
- mortgages;
- registered documents and dealings;
- exploration licences;
- expenditure;
- reinstatement of tenements;
- the Mining Rehabilitation Fund;
- jurisdiction relating to tenements and monetary claims;
- programs for environment protection and rehabilitation;
- caveats;
- private mines;

- safety net.

Part 2—Transitional provisions—*Opal Mining Act 1995*

This Part contains a number of transitional provisions consequent on the enactment of provisions in the measure dealing with the following:

- the opal mining register;
- caveats;
- safety net;
- jurisdiction relating to tenements and monetary claims.

Debate adjourned on motion of Hon. S.G. Wade.

Sitting suspended from 12:53 to 14:18.

ENVIRONMENT PROTECTION (WASTE REFORM) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

WORK HEALTH AND SAFETY (REPRESENTATIVE ASSISTANCE) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

CRIMINAL LAW CONSOLIDATION (CRIMINAL ORGANISATIONS) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

Members

SENATOR, ELECTION

The PRESIDENT (14:20): I lay upon the table minutes regarding the joint sitting of the two houses held today, Tuesday 14 November 2017, to choose a person to hold the place in the Senate of the Commonwealth rendered vacant by the resignation of Senator Nicholas Xenophon, whereat Mr Rex Lyall Patrick was the person so chosen.

Ordered to be published.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the Minister for Employment (Hon. K.J. Maher)—

Reports, 2016-17—
Across Government Asbestos Risk Reduction
Administration of the Freedom of Information Act 1991
Country Arts Trust
Department of Treasury and Finance
Electricity Industry Superannuation Scheme
Industrial Relations Court and Industrial Relations Commission
Legal Services Commission of South Australia
Office of the Public Advocate
Public Trustee
SA Metropolitan Fire Service Superannuation Scheme
South Australian Classification Council

Adelaide Hills Council Heritage Places (Stage 1) Development Plan Amendment for Interim Operation

Essential Services Commission of South Australia Final Report dated August 2017—
Inquiry into the licensing arrangements for generators in South Australia
Essential Services Commission of South Australia Final Report dated October 2017—
Inquiry into the reliability and quality of electricity supply on the Eyre Peninsula
Report and Determination of the Remuneration Tribunal No. 9 of 2017—Conveyance Allowance—Judges, Court Officers and Statutory Officers
Regulations under the following Acts—
Development Act 1993—Miscellaneous No. 3
Freedom of Information Act 1991—Exempt Agency No. 4
Mutual Recognition Act (South Australia) Act 1993—Temporary Exemption
Trans-Tasman Mutual Recognition Act (South Australia) Act 1999—Temporary Exemption

By the Minister for Sustainability, Environment and Conservation (Hon. I.K. Hunter)—

Reports, 2016-17—
Coast Protection Board
Gawler Ranges National Park Co-management Advisory Committee
Native Vegetation Council
Regulations under the following Acts—
Aquaculture Act 2001—Fees No. 4

By the Minister for Water and the River Murray (Hon. I.K. Hunter)—

Addendum to the Stormwater Management Authority, Report, 2016-17

By the Minister for Climate Change (Hon. I.K. Hunter)—

Premiers Climate Change Council, Report, 2016-17

By the Minister for Mental Health and Substance Abuse (Hon. P.B. Malinauskas)—

Regulations under the following Acts—
Controlled Substances Act 1984—Miscellaneous

Parliamentary Committees

SELECT COMMITTEE ON ADMINISTRATION OF SOUTH AUSTRALIA'S PRISONS

The Hon. T.J. STEPHENS (14:23): I lay upon the table the report of the committee, together with minutes of proceedings and evidence.

Report received and ordered to be published.

SELECT COMMITTEE ON CHEMOTHERAPY DOSING ERRORS

The Hon. A.L. McLACHLAN (14:23): I lay upon the table the report of the committee, together with minutes of proceedings and evidence.

Report received and ordered to be published.

NATURAL RESOURCES COMMITTEE

The Hon. J.M. GAZZOLA (14:24): I bring up the report of the committee's inquiry into Sustainable Prawn Fisheries Management in South Australia.

Report received.

PARLIAMENTARY COMMITTEE ON OCCUPATIONAL SAFETY, REHABILITATION AND COMPENSATION

The Hon. J.E. HANSON (14:24): I bring up the final report of the committee on an inquiry into the Return to Work Act and scheme.

Report received.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. T.T. NGO (14:25): I bring up the 2016-17 report of the committee.

Report received.

Ministerial Statement

PARLIAMENTARY BUDGET ADVISORY SERVICE

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:25): I table a copy of a ministerial statement relating to the Parliamentary Budget Advisory Service made earlier today in another place by my colleague the Treasurer.

INDIA BUSINESS MISSION

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:25): I table a copy of a ministerial statement relating to the India Business Mission 2017 made earlier today in another place by my colleague the Minister for Investment and Trade.

The PRESIDENT: Before we go to questions without notice, I have some information that has come across my table. Despite being assured by the Hon. Mr Ridgway that he is only 50 years old, I have been informed that he is 57 today. I will make sure the Liberal electoral council gets a copy of that information.

Question Time

APY EXECUTIVE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:29): Thank you, Mr President. It is good to see that you are only three minutes late to the start of this afternoon's session, not 9¾, like this morning. My question is to the Minister for Aboriginal Affairs. Can the minister advise how much the APY Executive has spent on legal fees to support the proceedings in the Supreme Court and, before, in the Civil and Administrative Tribunal, to prevent the public disclosure of the employment contracts of the general manager and his wife, and what has the minister done to assure himself that such spending is appropriate in these circumstances?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:30): I thank the honourable member for his question. I don't have that information. I can certainly ask the APY administration if they are prepared to provide it. I don't control the administration of the APY, so I will ask them if they are prepared to provide information on exact details, and I will get back to the honourable member in due course. The second part of the question was?

The Hon. D.W. Ridgway: What have you done to assure yourself—

The Hon. K.J. MAHER: On the second part of the question, in terms of governance on the APY lands there have been very significant improvements in governance on the APY lands, very significant improvements over the last few years. There is no doubt it is a difficult and challenging area of administration on the APY lands: the remoteness of the location, the often fraught political environment and the location. There has been much that has been achieved in recent times in terms of accountability, in terms of the financial operations of APY.

There has been a 2016-2019 strategic plan; there has been preparation for Telstra towers going up on the lands; commencement of governance officers working on the lands with APY through ORIC; new board members, both men and women, have been elected following changes that this parliament made; and all of the stages of the road, the $109 million joint state-federal road program, are progressing across the APY lands, which has necessarily involved the APY and the APY Executive.

Ernst and Young APY policies and procedures for financial management are being implemented. There have been new maintenance sheds and facilities built for APY. OH&S manual policies and procedures for APY businesses have been completed and implemented, and I understand that the 2016-17 audit is expected to be an unqualified audit, which is the first time I can recall that happening.

I absolutely agree that there is always room for improvement, and that is why the state and the federal government are jointly funding an ORIC officer—that is the Office of the Registrar of Indigenous Corporations—a joint governance officer, who I understand is on the APY lands at the moment doing anything that is possible to further improve governance, transparency and accountability on the APY lands. I have to say that I would like to place on the record my thanks to the federal government for their very strong support, not just for the ORIC officer who is on the lands at the moment but, as we have heard, Ernst and Young and others do work in the APY lands, for working together and jointly funding some of the programs that we are doing there.

In fact, I think it was Wednesday or Thursday last week that was the most recent time the federal minister, Senator Nigel Scullion, called me, and we had a discussion about how things are going on the APY lands, and I very much appreciate his restated support for making sure that the governance and administration is the best it can possibly be, given many of the challenges that are faced.

APY EXECUTIVE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:33): Supplementary question: does the general manager of the APY enjoy the minister's full confidence?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:33): I thank the honourable member for his question. It is not a position that I appoint. It is not a position that I remove. That is not something that is down to me.

APY EXECUTIVE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:33): Further supplementary: do you have confidence in the general manager's wife in the role that she is doing?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:33): Again, that is even further removed from me. That is not a position I appoint or I control or I remove.

APY EXECUTIVE

The Hon. T.J. STEPHENS (14:33): Minister, have you had a conversation with Mr King as to why he decided to try to keep the terms and conditions of his contract secret, what the fuss was about?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:34): I thank the honourable member for his question and his very, very genuine interest and, over a long period of time, work and concern in this area. In answer to the question, no, I have not had a conversation with Mr King. But in response to the honourable Leader of the Opposition's question, I will see if there is an answer that can be brought back, in terms of the legal fees, from APY.

APY EXECUTIVE

The Hon. T.J. STEPHENS (14:34): Supplementary question: minister, will you make it a point of urgency to contact Mr King and find out why he spent what seems to be an exorbitant amount of money on keeping the terms of his contract secret?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive

Transformation, Minister for Science and Information Economy) (14:34): I thank the honourable member for his question. I think probably the appropriate avenue to do that is through the ORIC officer who is on the APY lands at the moment. I will endeavour to ask her to include that in the work that she is doing in terms of governance there.

QUEEN ELIZABETH HOSPITAL

The Hon. S.G. WADE (14:35): My question is to the Minister for Health. Can the minister confirm that the 20-bed cancer ward at The Queen Elizabeth Hospital will begin closing this week and, if so, how many specialist cancer beds will operate at The QEH once that ward has closed and how many specialist cancer nurses will be based at The QEH after the closure?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:35): I thank the honourable member for his question. This state government takes very seriously The QEH as a fine institution that services public health patients throughout metropolitan Adelaide, but particularly those patients from the western suburbs. I think the government's stated commitment in respect of The QEH, of course, is best represented by us putting our money where our mouth is, or putting taxpayers' money in terms of investment in the order of $250 million at The QEH to ensure that it continues to be an outstanding institution for many, many years to come. As part of that commitment, at the same time, the government announced its intention to retain cancer services at The Queen Elizabeth Hospital.

That is important for the local community and I think we should put at rest concerns that there was some suggestion that all cancer services would be transferred off the site. That is not occurring. What is occurring is the retention of both inpatient and outpatient cancer services at The Queen Elizabeth Hospital. That is a great result for people in the western suburbs who will be needing treatment in a range of different areas. It is true that treatment of the most complex cancer services will be moving to the Royal Adelaide Hospital, but only in the most complex of instances, and that has always been the intention, which might be the context of the Hon. Mr Wade's question. But bed numbers within the Central Adelaide Local Health Network will not change, and cancer services and beds will of course remain available at The Queen Elizabeth Hospital.

Patients will continue to undergo cancer surgery and receive chemotherapy and access to outpatient services and day treatment services at The Queen Elizabeth Hospital. The government, of course, again, has committed in this year's state budget an additional $250 million into The QEH. That will dramatically improve the service delivery that The QEH is capable of delivering to the western suburbs, not for years to come but for decades to come. We will see a brand-new car park being built on site, we will see a brand-new operating theatre built on site, we will see a brand-new, and I am advised, larger emergency department at The QEH as well. This is a very substantial investment on behalf of this government and speaks volumes about how important this institution is in our view in terms of providing an important service regarding public health to the western suburbs.

QUEEN ELIZABETH HOSPITAL

The Hon. S.G. WADE (14:38): Can the minister confirm that there will be no specialist cancer beds at The QEH and that the remaining cancer beds at The QEH will be between four and six beds in a general medical ward?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:38): I think I have answered pretty comprehensively that the government is serious about honouring its commitment to retain cancer services at The Queen Elizabeth Hospital. Both inpatient and outpatient services will be retained at the hospital and will continue to be able to provide a range of different things: cancer surgery, chemotherapy, and access to outpatient services and day treatment at The QEH. We want to make sure that people living in the western suburbs, if they are struck with cancer, can get access to treatment in a world-class hospital close to their place of residence.

However, it is also true that the state government has obviously invested over $2 billion in a brand-new quaternary hospital. That will also be providing important cancer services to residents all across the state—not just the western suburbs, not just metropolitan Adelaide but indeed the whole state. The most complex cancer cases that need the most complex and acute treatment will be

delivered at the RAH, but cancer services will remain at The QEH, which is a great result for residents in the western suburbs, who can have more basic levels of cancer treatment at a hospital close to home that has undergone a substantial redevelopment—$250 million worth.

QUEEN ELIZABETH HOSPITAL

The Hon. S.G. WADE (14:40): Supplementary: given that my question was about inpatients and the minister chose to refer to chemotherapy dosing in response, can the minister confirm that he is advising the house that intravenous chemotherapy will continue to be available to inpatients after the closure of the cancer ward?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:40): I just don't accept some of the premises of the Hon. Mr Wade's question. I have stated very clearly that my advice is that we are retaining both inpatient and outpatient cancer services at The QEH as part of the government honouring its commitment to do so. This is a good result for the western suburbs. I certainly know that a lot of people in the western suburbs are grateful for that news and they are also very understanding that the government is investing an additional quarter of a billion dollars into this hospital—

The Hon. K.J. Maher: A quarter?

The Hon. P. MALINAUSKAS: A quarter of a billion dollars. It stands in stark contrast to plans that have been announced by our political opponents. I think it speaks a lot about how seriously we take this institution as being an important one when it comes to public health care in the western suburbs.

ELECTIVE SURGERY

The Hon. J.S. LEE (14:41): I seek leave to make a brief explanation before asking the Minister for Health a question in relation to elective surgery.

Leave granted.

The Hon. J.S. LEE: I refer to the minister's assertion yesterday that:

> …the key thing is that for those people that are suffering from an ailment or a condition that requires urgent surgical attention or urgent specialist attention [they] almost always get it with zero waiting time…

How can this statement be true when yesterday there were 170 patients at metropolitan hospitals who needed urgent category 1 elective surgery, which is surgery within 30 days, who had been waiting for more than 30 days?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:42): I thank the honourable member for her question because it gives me an opportunity to put on the record some impressive statistics when it comes to waiting times for outpatient waiting lists. I was making those comments on radio yesterday in the context of the article that appeared in *The Advertiser* that referred to outpatient waiting times, so let's talk about a few of these.

In the case of urgent outpatient services in the context of ophthalmology, let's look at the waiting times. I am advised that, in respect of Flinders Medical Centre, there are zero patients waiting who have urgent need. The average waiting time is zero days. At the Royal Adelaide, the urgent number of patients waiting is zero. The average days they wait is zero. At the Lyell McEwin Hospital, the number of patients waiting for urgent ophthalmology services is zero. The average waiting time is zero.

At the Women's and Children's Hospital, the number of patients waiting for urgent ophthalmology services is zero. I am advised that the average days waiting at the Women's and Children's Hospital for ophthalmology urgent services is zero.

The Hon. J.E. Hanson: A trend?

The Hon. P. MALINAUSKAS: I think there is a trend there. Let's talk about orthopaedics. The number of outpatients waiting for urgent services at the Flinders Medical Centre is zero; Royal Adelaide, zero; Lyell McEwin, zero; Women's and Children's Hospital, zero. These are just some

examples of the waiting times. At Flinders Medical Centre, cardiology, urgent, number of people waiting, zero; Royal Adelaide, zero; Women's and Children's, zero. There are some outstanding numbers that I think the government and our health department and everyone who works within it can be very proud of when it comes to outpatient waiting times.

It is also true that in routine cases there are some waiting time numbers that aren't okay and that can be improved upon, but they are predominantly in the case of routine services. We need to get that number down. We acknowledge that there is always room to improve. We are mature enough to do that because we are serious about improving public health care in this state. When things are not going that well or if there are areas for improvement, you acknowledge it and then you make an effort to try to address it, and that is exactly what we are doing. It stands in stark contrast to members opposite, who are preoccupied only with creating fear and distrust in our very, very capable men and women who are working within our health service in this state.

We are happy to acknowledge areas where improvement is required and invest effort and resources in trying to achieve that. When it comes to investment, we know that we have a $1.1 billion pipeline for investment in our public hospital network to make sure that we are doing everything we can to put downward pressure on these waiting lists. We are serious about making sure that everyone in our state gets access to an outstanding level of health care. We are getting on with delivering that. Part of that is noticing where we can improve and then making the effort to do it.

ELECTIVE SURGERY

The Hon. S.G. WADE (14:46): Supplementary question: in relation to the minister's comments about ophthalmology services at the Royal Adelaide Hospital, is the minister aware that there are three ophthalmology patients at the Royal Adelaide Hospital who have been waiting for more than 30 days for elective surgery that is regarded as category 1, which should be done within 30 days?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:46): I was making some comments in regard to outpatient waiting lists. I am more than happy to make inquiries in regard to elective surgery waiting times that underline—

The Hon. J.S.L. Dawkins: Zero, just a zero.

The PRESIDENT: Order!

The Hon. P. MALINAUSKAS: —what the Hon. Mr Wade is referring to.

JOBEX

The Hon. G.E. GAGO (14:46): My question is to the Minister for Employment. Can the minister update the chamber on the success of the recent JOBEX?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:46): I thank the honourable member for her question. She is a former and very distinguished minister for employment with an interest in jobs in South Australia. Over this recent weekend, we saw the largest ever employment expo in South Australia's history, JOBEX. The expo was held at the Adelaide Convention Centre, which continues to kick massive goals by hosting conferences and expos from around the world.

I must say that when I attended JOBEX on Saturday, it was an absolutely fantastic set-up that was absolutely packed. There were about 120 businesses at JOBEX in Adelaide actively looking to recruit South Australians in industries that we know are creating jobs, such as defence and shipbuilding; health and research; IT and other high-tech areas; energy and mining; and tourism, food and wine. In total, I am informed that in excess of 8,000 people visited the job exhibition across its two days in Adelaide on Friday and Saturday.

I was very pleased to look at a number of the companies that were exhibiting, but in particular I caught up with simulation technology developer Sydac, one of the exhibitors at JOBEX that is actively looking to recruit. The company is focused on the global transportation and defence sectors, employing software engineers, graphics people and mechanical and electrical engineers. Sydac

currently employs about 150 people and is looking to immediately fill 10 software engineering positions, with future plans for many more jobs. The company is a great example of the future industries that we will see in South Australia, high-tech jobs within areas such as transport or, indeed, within defence industries.

Sydac has been involved in some massive projects around the globe. It has been involved in Indian Railways, where it is currently delivering a $30 million contract to supply Indian Railways with 12 driver training centres, including more than 80 simulators. Crossrail in London is the largest infrastructure project in Europe, worth about $US26 billion, and Sydac's simulators have been critical to training drivers to enable this huge project to start moving passengers on time. Shanghai Metro is the largest metro network in the world, I am advised, and Sydac's simulators are being used in their new underground lines 7, 9 and 11.

JOBEX moves to Port Augusta on 20 November and then to Murray Bridge on 23 November. About 1,000 people are expected to attend these regional JOBEXs, with around 40 exhibitors on display to hand out advice on job availability and career pathways. The JOBEX exposition has demonstrated the breadth of opportunities available and is supporting South Australia's transition from traditional industries into future growth sectors. The focus is on emerging sectors such as, as I said, defence and shipbuilding, health and research, IT, and other high-tech industries such as energy, mining and tourism, and food and wine.

In the regional areas, we have partnered with some of the big regional employers in these specific regional areas, as well as companies that want to do more in the regions. For Port Augusta and Murray Bridge events, we have companies like BHP, Cavpower, Discovery Parks, Mighty Kingdom software development company, Nyrstar, SolarReserve, Sundrop Farms, Tesla, Viterra, ZEN Energy, Costa, Thomas Foods and, of course, Zoos South Australia, which are an employer in the Murraylands area. Leading tertiary institutions, our three universities, are also there, helping people who have questions and an interest in educational pathways required to secure some of the jobs of the future.

JOBEX is a free event, but people need to register by going to the JOBEX website. For attendees over the Friday and Saturday just gone in Adelaide, people who had registered were able to gain free public transport to attend. I am pleased that attendees attending the Port Augusta JOBEX, upon registration, can access the free transport from Port Pirie or Whyalla to Port Augusta, and also for the Murray Bridge event people can access free transport to travel from Mannum or Tailem Bend to attend.

I would encourage any South Australian who is interested to go to jobex.sa.gov.au and have a look at what is on offer.

HOME INVASIONS

The Hon. D.G.E. HOOD (14:51): I seek leave to make a brief explanation before asking the minister representing the Minister for Police questions relating to home invasions.

Leave granted.

The Hon. D.G.E. HOOD: It has come to my attention that there has been an increasing incidence of home invasions and resulting car thefts occurring in the eastern suburbs of Adelaide. I have been contacted regarding two specific home invasions which have occurred in the last couple of weeks in Adelaide's eastern suburbs.

The first was where a man was severely beaten with a baseball bat when he came face to face with multiple intruders in his home in the middle of the night. I am told he was beaten within an inch of his life, to use a colloquial expression, before the intruders fled the scene in his own car.

Another home invasion I am aware of happened to people known to me, where a masked man entered a house occupied by a woman and her young daughter. Thankfully this house had a monitored security system. The woman was able to press the panic alarm, sending the intruders fleeing. Unfortunately, despite this, the police were not able to apprehend the intruders.

I am told that this is part of a number of crimes that have occurred along similar lines in Adelaide's eastern suburbs in recent weeks. These criminals know that they have approximately

15 minutes to ransack a house and steal a car before police would arrive in general. They are also aware that police are obviously limited in their pursuit tactics if and when they identify the stolen vehicle as it has been taken from the home in question. My questions for the minister are:

1. How does the rate of home invasions compare this financial year to the last few financial years both across the state and specifically in the eastern suburbs of Adelaide where these events have occurred in recent times?

2. Has the systemic closure of police stations affected response times over the last five years?

3. What has been done to better resource police and ensure that they can respond quickly and apprehend criminals during such home invasions where seconds count?

4. What, if anything, is the government doing to better enable police to pursue and catch these perpetrators?

5. Does the government plan to introduce a task force or something similar in order to deal with this crime wave that is currently underway?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:53): I thank the honourable member for his question and acknowledge his ongoing advocacy when it comes to addressing issues around crime within the state. Naturally, the question being for the Minister for Police, I am more than happy to take the question on notice and pass it on to him accordingly. However, I can't help but take up the opportunity to respond on behalf of the Minister for Police in regard to a couple of components of the honourable member's question.

The first one he raises is the issue around police resourcing and decisions that the police commissioner may have made in regard to police station operating hours. As the former police minister, I have spoken a number of times in this place around the fact that this state government, of course, has provided the police with a record level of investment. We have seen a dramatic increase in the number of active sworn police officers who are out on the ground serving our community, principally represented by ongoing recruitment campaigns, the most recent one of which is the Recruit 313 exercise, which is seeing an extra 313 active sworn full-time police being delivered to the police force over and above the rate of attrition. It's an extraordinary effort that is underway.

However, what the police commissioner has also done is make sure that those resources actually deliver an outcome on the ground. That means that the police commissioner has made a number of difficult decisions—but quality decisions—that are orientated towards improving response times. That includes adjustments to reduce some police station operating hours. You wouldn't believe it, but criminals tend not to commit criminal acts within the reception of a police station. Believe it or not, they don't even commit crimes in the car parks of police stations.

What actually ends up happening is that they commit crimes out in the community, so what we want is the same thing that the Hon. Mr Hood wants, which is police out on the beat—out on the ground in their patrol cars, getting around the place, so that when a call comes they can respond to it quickly, as I indeed hope occurred in the instance the Hon. Mr Hood refers to. If we have more police sitting around police stations waiting for people to walk through the front door, that compromises their capacity to otherwise be out on the ground. So, it's about getting the balance right, and I know the police commissioner has worked assiduously to ensure that is the case.

The opposition, of course, are trying to exploit this as an example, somehow, of a failure of government policy. It's just utterly extraordinary that the opposition are going to the election as the alternate government of this state with a repeatedly stated policy, in a number of instances, that they are going to exercise extraordinary powers to instruct the police commissioner about how to do his job. It is an extraordinary policy that we are going to have the Liberal Party—the likes of the Hon. Mr Lucas—telling the police commissioner how to do his job. It's going to be a ripper to see the way this unfolds and whether or not the South Australian community is willing to entrust police and security policy to the hands of the Hon. Mr Lucas or the police commissioner. I know who we back: we back our police.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. MALINAUSKAS: We back our police. The residents and the people of South Australia will have to analyse the policy of the Liberal Party, who can't help themselves. The Hon. Mr Lucas and the Hon. Mr Ridgway are going to the election telling people that they know more about policing than the police commissioner himself. It's a ripper. Good luck to them. Our policy is on the record. What we do is give police record resources. How about this for a statistic—it stands in stark contrast to when the other mob were in charge: we have more police per capita in South Australia than any other state in the country. It's a formidable record.

What the Liberal Party want to do with all those extra police is wrap them up in police stations: more police sitting around in police stations, while we have more police out on the beat. More police sitting around in police stations or more police out on the beat. I know which one the South Australian public prefers. They don't want you—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. MALINAUSKAS: —telling where police should be.

The PRESIDENT: Speak through the chair.

The Hon. P. MALINAUSKAS: Police out on the beat or police sitting around in police stations. Bring it on.

The Hon. J.S.L. Dawkins: I'll take you out to Salisbury and see what they want, mate.

The Hon. R.I. Lucas: And Henley Beach.

The Hon. P. MALINAUSKAS: They want it out on the beat.

The PRESIDENT: Order!

The Hon. J.S.L. Dawkins: No, they don't; they want a police station.

The PRESIDENT: The Hon. Mr Lucas.

The Hon. P. Malinauskas: They want it out on the beat.

The Hon. J.S.L. Dawkins: You're an idiot. I withdraw, sir.

The PRESIDENT: The Hon. Mr Lucas.

Members interjecting:

The PRESIDENT: Order! Will the honourable Leader of the Government please address members here as 'the honourable'.

The Hon. P. Malinauskas: Well, how about people not calling each other idiots?

The PRESIDENT: He just apologised.

The Hon. J.S.L. Dawkins: I withdrew the comment, alright?

The PRESIDENT: He withdrew the comment. The Hon. Mr Lucas has the floor. The Hon. Mr Lucas, I don't know what you are waiting for. You have the floor.

Members interjecting:

TREATY NEGOTIATIONS

The Hon. R.I. LUCAS (14:59): I can't hear myself over the Hon. Ms Gago interjecting, the previously extinguished minister for employment. I seek leave to make an explanation prior to directing a question to the Leader of the Government on the subject of Aboriginal treaties.

Leave granted.

The Hon. R.I. LUCAS: In a momentous interview on the controversial topic of Aboriginal treaties, the Leader of the Government said on 14 December last year on ABC radio—let me quote his exact response so that he doesn't claim to have been quoted out of context. The question came:

> The South Australian government says negotiations will be open ended but what form any treaty would take or whether compensation would be included isn't yet clear…Kyam Maher.

The Hon. Mr Maher replied:

> We have an ambition to have whatever form it takes a treaty signed off by the end of next year—

which is, of course, the end of this year. My two questions to the Leader of the Government are as follows:

1. Given that we are almost at the end of this year, 2017, could the minister indicate whether he will have a treaty signed off, as he indicated 12 months ago, by the end of this year?

2. Can he now indicate whether or not there have been any discussions on behalf of Aboriginal Nations in relation to compensation? If there have been, what, if any, response has the government given?

Ministerial Statement

RETURN TO WORK SCHEME

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:01): I table a copy of a ministerial statement relating to the Return to Work scheme review made earlier today in another place by my colleague the Deputy Premier.

AGED-CARE HOUSING DEVELOPMENTS

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:01): I table a copy of a ministerial statement relating to the revocation of a major development declaration for aged-care developments made earlier today in another place by my colleague the Deputy Premier.

Question Time

TREATY NEGOTIATIONS

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:01): I thank the honourable member for his questions. He, as he usually does, tries to verbal people with the way he phrases questions, characterising the treaty policy, discussions and consultations that have been started as controversial. The only people who find it controversial are those on the other side. They are the only people who find it particularly controversial.

That having been said, questions were about the stated ambition to have something, if we can, signed by the end of this year. I can inform the chamber that, on the recommendation of the report of the Treaty Commissioner, the report was written after what is almost certainly the most comprehensive consultation that has ever been undertaken with Aboriginal South Australia. If my memory serves me correctly, about 700 individuals were consulted, and there were many more hundreds of submissions and engagement through electronic media. I think the treaty team over the six months they conducted consultations with Aboriginal South Australia clocked up about 11,000 kilometres doing those consultations.

I want to place on the record that overwhelmingly amongst the Aboriginal community this is not controversial. This is something Aboriginal South Australians want, but those opposite know better. They know better about what Aboriginal people want than what Aboriginal people say through comprehensive consultation.

That has been a hallmark of how some of those opposite have conducted Aboriginal affairs. We saw the Leader of the Opposition, who assumed the role of shadow minister for Aboriginal affairs, unilaterally declare that he doesn't support treaty. His consultation? He turned off the highway, talked to a few people on the APY lands and said, 'They didn't raise it, therefore it's off the agenda.'

For far too long, for a couple of hundred years, non-Aboriginal people in this country have been making policy for Aboriginal people, not with Aboriginal people. They have been doing things to Aboriginal people, not with them, and that continues that very sad history of doing that. That is not what we will do as a government; it is what those opposite do.

It is what they did federally, when the Prime Minister out of hand dismissed the statement from Uluru, one of the most comprehensive statements of the ambition of Indigenous people around Australia that was dismissed completely and utterly out of hand because those opposite think they know what's best for Aboriginal people, and they will continue to do policy to them.

In terms of treaty in South Australia, after the Treaty Commissioner's report we have started in-depth discussions with the first three Aboriginal groups after an expressions of interest process overseen by the Treaty Commissioner, and we are currently deep in discussions with Adnyamathanha, Narungga and Ngarrindjeri nations. They are going very well. For each of those I was at the start of discussions that have occurred progressively over the last couple of months, with Ngarrindjeri at Murray Bridge, with Narungga at Point Pearce and with Adnyamathanha at Wilpena. Those discussions are continuing.

It is possible we may have something signed by the end of the year with an Aboriginal nation. That is certainly the aim that has been stated, and that is the intention. With the goodwill that has been shown, that is certainly still the aim. We are not going to unnecessarily rush this. It is an aim to have an agreement completed by the end of this year, but we will not be forcing it, because we recognise that we need to work with Aboriginal people and not do things to Aboriginal people.

TREATY NEGOTIATIONS

The Hon. R.I. LUCAS (15:05): Supplementary question arising from the minister's answer: given that the minister has indicated that it is still his intention to try to have an agreement with at least one Aboriginal nation within the next six weeks, that is, by the end of this year, can the minister now indicate, as I said in my question originally, whether compensation has been raised by any of the Aboriginal nations and, secondly, given that he is within six weeks of potentially signing a treaty with one of the many Aboriginal nations, what aspects are being covered by the proposed treaty?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:06): In the discussions and the consultation that occurred in, as I said, what is almost certainly the most comprehensive consultation that has ever occurred with Aboriginal South Australia, compensation was an element. I haven't been a part of the fine grain detail over many, many days.

I certainly went on country at the commencement of discussions. I haven't been a part of the fine grain detail. Certainly, while these discussions and negotiations are occurring, I am not about to start talking very publicly about what is being discussed in good faith with Aboriginal groups.

The Hon. R.I. Lucas: What's it going to cost?

The Hon. K.J. MAHER: The honourable member interjects about what is the cost. This didn't come up in the discussions. I am not about to breach the good faith discussions that have already started.

TREATY NEGOTIATIONS

The Hon. T.A. FRANKS (15:07): Supplementary arising from the minister's original answer: has any concern been expressed by any of the nations with regard to the lack of the opposition's support for treaty, and is there any pressure to conclude these discussions in a quicker way because of those pressures?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:07): I thank the honourable member for her question. I might answer the second part first. As a general proposition these discussions are going probably as would have been expected, regardless of any outside comments or interventions, in good faith to try to reach an outcome. In terms of whether anything has been expressed by the opposition to treaty that the member of the opposition has mentioned: absolutely, almost universal condemnation.

TREATY NEGOTIATIONS

The Hon. R.I. LUCAS (15:08): Supplementary question arising out of the minister's original answer: will the minister indicate, given that he hopes to have one of these treaties signed before the end of the year, what provisions or what issues are likely to be covered in the proposed agreement? He has responded to the issue of compensation, but won't indicate what the cost is. What other issues are likely to be included in the treaty negotiation?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:08): I indicated before that we are having discussions in good faith, and if we can reach something by the end of this year, as we are hopeful of, but we are not putting undue pressure, we will let you know.

TREATY NEGOTIATIONS

The Hon. R.I. LUCAS (15:08): Supplementary arising out of the minister's answer: is the situation that the minister has no idea what is proposed to be included in the treaty negotiation? Does it include, for example, discussions in relation to the teaching of Aboriginal languages within schools in South Australia, whether it be in the APY lands or elsewhere; and, does it include issues in relation to health and health governance and the delivery of health services? Surely the Minister for Aboriginal Affairs must have some idea of what he wants included in the treaty negotiation.

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:09): I thank the honourable member for his question. There has been a wide range of issues raised, but I might say that we have been requested, by some of those we are in discussions with, not to speak publicly about the ongoing discussions, and we will respect that. I know those opposite wouldn't do that, because they love doing things to Aboriginal people and not with them. That is how they have always done it and that is how they are continuing to do it.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.J. Maher interjecting:

The PRESIDENT: Order! The Leader of the Government will address people by their title.

SAGE AUTOMATION

The Hon. J.M. GAZZOLA (15:10): My question is to the Minister for Manufacturing and Innovation. Can the minister update the chamber on SAGE's decision to move to the Tonsley innovation precinct?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:10): I thank the honourable member for his question. SAGE Automation is one of the shining lights of the South Australian advanced manufacturing sector. Founded in 1994 by managing director Andrew Downs in his backyard shed, the company has grown significantly since then thanks to cutting-edge innovation and, with the support of the state government, has recently moved into its new, purpose-built facility at the Tonsley innovation precinct.

This impressive, custom-designed facility under the main assembly building will be a great fit for the company and a great fit for Tonsley, providing a local headquarters and boosting its ability to undertake advanced manufacturing. SAGE's purpose-built 3,100 square metre facility will house 120 staff, its head office, its national marketing facility, and the company's three main divisions. I understand the move to Tonsley has enabled SAGE to transform its advanced manufacturing facility and achieve Industry 4.0 classification through a range of technological improvements.

SAGE Automation's presence at the precinct will only strengthen the critical mass of innovation at Tonsley. The company's new neighbours include some of the world's fastest-growing and most innovative companies in industries that are growing just as quickly, companies and leading education research centres like Siemens, Signostics, Micro-X, Innovyz, Simulation Australia, ZEN Energy and, of course, Flinders University. These occupants are continuing a long tradition of innovation on this site. A wealth of collaboration is being ignited at Tonsley by the co-location of some of our most innovative companies and researchers, particularly those linked to institutions like Flinders University.

SAGE is now the nation's largest independent industrial control systems integrator, with 10 offices nationally, three in India, and around 220 staff in total. The company counts blue-chip businesses amongst many of its clients. SAGE Automation is a South Australian success story that has a multimillion dollar turnover and a growing presence on the world stage with a string of awards to its name, including coming in at No. 52 on the South Australian Business Index. Pleasingly, the company is also having success in the defence sector this year, through its partnership with Spanish shipbuilder Navantia, securing a $2.8 million contract to manufacture and supply control systems for two ships being built for the Royal Australian Navy.

The state government's Automotive Supplier Diversification Program has been supporting South Australian automotive supply businesses like SAGE to diversify, and a grant of $500,000 from that program has helped SAGE take its business to the next level. SAGE Automation is an outstanding example of what the future looks like in this state, a South Australian-based global company employing local people to develop and export high-tech solutions and applications to the world. This will be a valuable addition, the world-class company choosing to locate its operations at our world-class Tonsley innovation precinct.

BORAL LINWOOD QUARRY

The Hon. M.C. PARNELL (15:13): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation a question about pollution from quarrying operations in metropolitan Adelaide.

Leave granted.

The Hon. M.C. PARNELL: The Boral Linwood quarry at Hallett Cove, also known as Cement Hill, provides aggregates used for road building and other construction purposes in Adelaide. I understand it produces about one million tonnes of aggregate per annum. Whilst the quarry has been there for many years, the urban environment is encroaching and housing is now only a few hundred metres from the quarry. As the quarry also expands further southwards towards housing, it is increasing the number of complaints and the adverse impact on the residents. As recently as yesterday I have received emails and phone calls from local residents complaining about dust and vibration from explosives used at the quarry.

Now, I understand that at least seven state and federal members of parliament have visited the residents, including the minister, including the Hon. David Ridgway—they told me—and these MPs have visited the site, met with residents and listened to their concerns. I also understand that the EPA is looking into the residents' concerns about dust and vibration from the Boral quarry. My question of the minister is: what measures is the government taking to manage the conflict between housing and mining at Hallett Cove, and in particular will you be advocating on behalf of the residents to halt the further expansion of the quarry towards residential areas?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:15): I thank the honourable member for his very important question. It is a question, of course, that has become more prominent over the years. When the quarry initially started operations there was virtually no-one living

around that area. It was, I think, set up as a private mine in the first instance under old legislation which we no longer have. We amended the Mining Act in 1971 and subsequently as well, and the private mines have a rather strong grasp on their tenement and their position, which is quite distinct from the current situation under the Mining Act.

So, to be fair, they were there first, but nonetheless the community has grown, as the Hon. Mark Parnell has commented on, and has encroached closer and closer over time towards the boundaries of that mine. In dealing with these issues one has to perform a delicate balancing act, because of course everybody wants the products from the quarry at the best price they possibly can, and that means quarries being closer to their use, which means that the product will be cheaper. When you are building a home which relies on those products, or you are building roads and services that rely on those products, for example, then you are wanting a quarry close by rather than one that is at some distance, and you would have to then pay for transport costs. However, local amenity is also important, and these are issues that I know the quarry and the residents' associations have been working on for a considerable period of time.

As the quarry has been working outwards towards the boundaries, there have been a number of setback distances, I suppose is the best way of putting it, that the quarry owners have set for themselves and the community over the last 20 or 30 years. But of course as they have exhausted their internal part of the mine, they've been moving those boundaries closer and closer towards roads and residential properties, and I think at the moment from memory the boundary is about 300 metres.

The last time I spoke to residents and the quarry itself would have been earlier this year. My understanding was that residents were seeking an undertaking from the quarry on a couple of grounds. One was adequate notice of use of explosives, which I think from memory happens on Wednesdays; I could be wrong about that, but I think it is Wednesdays, usually 11 o'clock Wednesday mornings. I understand there is a—well, not a telephone tree any more, it would be—an email tree of some sort now where the quarry, or the responsible office at the quarry, sends out an alert or notice to the community saying that they will be using explosives at such and such a time.

There was an issue earlier in the year, which the quarry has owned up to, where they in fact used the incorrect explosives or the correct explosives in an incorrect way and had a much larger explosion at one time than they probably would have normally done. They confessed that that was an accident and have put in place procedures to make sure that that doesn't happen again. That caused great concern to the local community, not just in a larger than normal explosive noise but also in perceived earthshaking concerns and subsequent cracking, that people think is due to those explosions, in their homes and foundations, and also of course about dust.

I have been down to the quarry and I have seen the large extent of the dust suppression practices put in place, which is basically putting sprinklers on top of mounds of, I suppose, topsoil and other waste that is not required and to make sure that the site is wetted down before they explode but, nonetheless, in any such situation when you are actually using explosives you will incur some inconvenience in terms of dust. They do try to factor in, as I understand it, wind direction, and if the wind direction is inappropriate then they will delay the use of explosives until it changes to such a direction that it will not cause as much concern for residents as can possibly be done.

I understand from my last discussions with the company that in order to try and meet the residential concerns they will seek to halt their southward expansion of the quarry and move in an easterly direction, which I understand from my conversations with the residents is what the residents want, that is, away from housing to the west and south and to the north. That of course has to be based on economic factors. Is the resource in the easterly direction of the same quantity and quality that they would get elsewhere? Because they are a private mine, they have an ability to take the quarry right up to the very boundary of their property, but in a gesture of good faith as operators in a heavily residential area now, they have decided to set these certain setbacks.

Concerns have been relayed to me that the setbacks have been eaten away over the last two decades and that is something I have raised with the quarry, that when they do set these setbacks, they need to stick to them, otherwise the residents will feel that they have been sold out and cannot actually have any faith or trust in the quarry making these statements about setbacks, and that is something that the quarry has taken on board.

In terms of managing the conflict, that is really a matter, under all of our legislated instruments really, for the quarry owners to do. The EPA, of course, has been very active in monitoring dust and the concerns that have been raised by the local community. They have put in detectors, they have talked to the quarry about the explosives and have made sure, as I said, that in relation to the incident where they had an incorrect application of explosives earlier in the year that will not be repeated, and I have been assured by the company that they have put in place processes to make sure that it doesn't.

Nonetheless, the EPA has been an active participant. There is a residents' group that the EPA talks to quite frequently. They have acted as a conduit between the residents and the quarry. My understanding is that the quarry is meeting with the residents much more frequently, has updated its communications protocols and is producing newsletters.

But, at the end of the day, there will be conflict between the houses and the quarry as the quarry goes about its business. Our responsibility is to make sure that they do not exceed the tolerances that are set by regulations by the EPA in terms of creation of dust and, by all accounts from reports of the EPA, they have not exceeded those dust concerns.

Quite frequently, when people have issues about dust and they think it is actually due to a source of one sort or another, in some respects it often is not. It could be due to another dust source. We have found that in relation to quarrying in the south of Adelaide, not just here but also in another quarry further south, where the dust has actually come off some farming enterprises close by. So we cannot always be absolutely sure where the dust comes from, but it is obvious that it comes from explosive use and that is usually on a Wednesday, as I say, at 11 o'clock, and that is being closely monitored.

The EPA is involved probably more than it should be, but because of the breakdown between the residents and the quarry some time ago they have stepped in to try and mend those fences. My understanding is that the quarry has improved its processes, has not exceeded air quality in terms of dust in recent times, and is concerned to become a good neighbour, and is looking at taking its quarrying practices towards the east, away from the existing houses.

TONSLEY INNOVATION DISTRICT

The Hon. T.J. STEPHENS (15:24): I seek leave to make a brief explanation before asking the Minister for Manufacturing and Innovation a series of questions about the Tonsley innovation district.

Leave granted.

The Hon. T.J. STEPHENS: Between 4 and 8 October, the Tonsley innovation district was home to the first Hybrid World Adelaide technology festival. The key feature of the five-day event was the two-day Hybrid World Adelaide conference. My questions to the minister are:

1. How much funding did the state government provide towards the Hybrid World Adelaide conference?

2. Can the minister provide a breakdown of the amount spent on the delivery, preparation, promotion and advertising of the conference?

3. How many tickets to the conference were actually sold?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:25): I thank the honourable member for his good and very genuine questions. Although as Minister for Manufacturing and Innovation, I do have responsibilities in relation to the Tonsley innovation precinct, not all events that are run at Tonsley come under my portfolio. Certainly, Hybrid World wasn't one that was run out of my portfolio areas, but I will ask the minister responsible. I think it might be Major Events, but I will find out who is the minister responsible and I will endeavour to bring back an answer either before we rise or this year about those questions.

TONSLEY INNOVATION DISTRICT

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:25): Supplementary: also, minister, if you are bringing back information this year, can you find out how many international guests and interstate guests were flown in for the event, how many vehicles branded as Hybrid World vehicles picked up guests from the airport and how much hotel accommodation was paid for by the government for those guests?

An honourable member interjecting:

The Hon. D.W. RIDGWAY: Given that the minister said he would bring back an answer, I thought we would have an answer on those particular issues. Thank you.

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:26): I thank the honourable member for his question and I will refer those to the minister responsible and bring back a reply in due course.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Order! The Hon. Mr Hanson.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Order! The Hon. Mr Hanson has the floor.

Members interjecting:

The PRESIDENT: Will the honourable Leader of the Government allow his colleague to ask a question.

SCHOOL NATURAL RESOURCES MANAGEMENT ACTION GRANTS

The Hon. J.E. HANSON (15:26): My question is to the Minister for Sustainability, Environment and Conservation. Will the minister update the chamber on how this government is supporting South Australian communities and education about sustainability and our environment?

The Hon. P. Malinauskas: He might take it on notice.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:26): I thank the honourable minister for his kind suggestion, but I might give it a go. I thank the honourable member for his very important question. Unlike the Hon. Terry Stephens, who seems to be nodding off across there, uninterested in this topic and this subject, I think teaching students about the environment actually helps to form a lifelong understanding with those students. It is a very important part of their education. It is an important part of the role they play in building a sustainable future for all of us. The Hon. Terry Stephens should do his best to stay awake during this answer; he might actually enjoy it.

For this reason, it is very exciting to share with the chamber that 41 schools were successful recipients of grants through the 2017-18 School Natural Resources Management Action Grants program in the Adelaide and Mount Lofty Ranges Region. The grants are allocated each year by the Adelaide and Mount Lofty Ranges NRM Board. Schools can apply for grants of up to $2,000 each and communities can apply for grants of up to $5,000 for projects or activities that promote sustainable management of our natural resources.

The 41 schools that received grants totalling more than $70,000 will use the funds to support environmental projects including creating bush tucker gardens, building frog ponds, restoring bandicoot habitat and generally help students to create a sustainable future and to learn about the environment and how all things are interrelated.

Williamstown Primary School is one of the schools, I am advised, to receive funding and will use its grant for a Zero Waste project including purchasing bins, creating signs and educating the community about recycling, while the Star of the Sea School in Henley Beach will create a habitat for local indigenous plants and animals. Birdwood Primary School will use worms, compost and

plantings to create sustainable soil systems and Sunrise Christian School in Paradise will create a vegetable garden, I am advised.

These creative projects are just a few of the many funded projects that will provide some very valuable learning experiences for all the students and also the educators who are involved. Our young people will be the environmental stewards of tomorrow, and these grants are just one way that our NRM boards are helping them gain the skills and knowledge needed to care for water, land and biodiversity.

This grants program is an example of how this government, through our nationally recognised NRM boards, is connecting with local communities to support education about the importance of sustainable environmental management and how all South Australians, regardless of their age, are an important part of achieving this. These grants that I have outlined would all be at risk, of course, under the Liberals' announced NRM revamping.

The Hon. J.E. Hanson: Oh, no.

The Hon. I.K. HUNTER: The Hon. Justin Hanson says, 'Oh, no,' but I have to say, 'Oh, yes.' These are all at risk because on Sunday 5 November, the state Liberal Party announced their much talked-up policy on natural resources management. As far as I can see, the biggest reforms they are making are ditching the environment, sacking regional staff to outsource their functions and recreating all the problems inherent in local politics by replicating council-type elections for positions on NRM boards.

The policy explicitly states that they will focus on soil, water and pest control. Barnaby Joyce, the former deputy prime minister, would be very proud that the Liberal Party in South Australia are taking NRM out of the environment, out of the hands of the greenies, and giving it back to agriculture. That's what Barnaby Joyce boasts about and that's what the Liberal NRM plan will do. Forget about biodiversity, forget about native vegetation, forget about marine biodiversity and climate change. None of that got a mention, and they are all part of the activities that NRM boards are engaged in, mixing up their joint responsibilities to deal with the environment and the agricultural sector in a holistic way because we all know that they are intricately interconnected.

The Liberals, both here and in Canberra, just don't care about the environment. The Labor Party supports our farmers, our irrigators and the environment they all depend on. The only way we can ensure our primary producers have jobs into the future, jobs for their children, is by ensuring that the entire ecosystem is managed with a view to sustainability as well as productivity. We already work with our farming communities on projects such as no-till farming, which has resulted in a significant reduction in soil erosion risk. This will help to ensure that precious soils are not lost in significant wind or rain events, and it underpins our reputation as the home of premium food and wine from our clean environment.

In addition to these projects, NRM works on projects such as Naturally Yorke, to work with the community to reintroduce mammals, manage pests and restore habitats across 300,000 hectares of southern Yorke Peninsula. This has been generating benefits for agriculture, ecotourism and Aboriginal employment in the region. It is simply a system-wide approach, which will be abandoned by the Liberal Party, should they ever be re-elected, under their new revamped NRM policy. They also say that they are going to force NRM boards to outsource their functions. That means that they are going to sack about 300 local, regional NRM members and outsource those functions outside of NRM to goodness knows who, bodies that may not actually come from the local community. They could be outsourcing these functions to companies from Melbourne or Sydney.

That is what their NRM policy is all about: sacking the locals, who live in the community delivering these programs, and outsourcing them. I think that the community in South Australia will have something to say about that come March. This is not a policy: this is a fizzer. This is something that they have stuck together to try to appear to be doing something to NRM, but what they have done is unstitch it in the best possible Barnaby Joyce way.

Auditor General's Report

AUDITOR-GENERAL'S REPORT

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:33): I move:

That standing orders be so far suspended as to enable the report of the Auditor-General for the year ended 30 June 2017 to be referred to a committee of the whole and for ministers to be examined on matters contained in the report for a period of one hour.

Motion carried.

In committee.

The Hon. M.C. PARNELL: My question is a fairly straightforward one and I think it is a referral question to the minister representing the Hon. Stephen Mullighan, Minister for Transport and Infrastructure. My question relates to the finding of the Auditor-General, which is summarised from page 91 onwards in Part A: Executive summary, relating to the awarding of project manager contracts for the Festival Plaza project state works. I will not read the several pages, but the Auditor-General states, for example:

We found significant shortcomings in controls as these processes did not meet accepted standards of procurement and contract management practice and behaviour.

He also referred to problems with probity because the contractor that the government used, Mott MacDonald, was also the contractor that was engaged by the Walker Corporation to undertake their works.

The question that I would like the minister to take on behalf of the minister in the other place is whether these issues have been resolved. Are there still problems with conflict of interest and probity? Have any other subsequent contracts entered into between the government and Mott MacDonald engineering met all of the appropriate financial standards, in particular those that the Auditor-General found had been breached?

The Hon. K.J. MAHER: I thank the honourable member for his question and can confirm his suspicions that this is not a question I am capable of delivering an answer to him right here, right now. However, I will refer the question to honourable minister Mullighan in another place and seek an answer for the honourable member about those pages of comments. I think the question was: what steps have been taken to rectify the matter that was the subject of the comments from the Auditor-General?

The Hon. D.W. RIDGWAY: I have just a couple of questions to the minister for industry, innovation and science in relation to small business grant payments. The Automotive Supplier Diversification Program administered by DSD started in 2013-14. According to page 456 of the Auditor-General's Report, $3 million in grants have been provided until June 2017. My first question is: can we clarify that the $3 million amount is what was administered in the last financial year, or was it since the grant was first introduced in 2013-14 year?

The Hon. K.J. MAHER: I thank the honourable member for his question. My advice is that roughly $3 million—that is, $2.793 million—is grants since the inception of the program. The figure for that particular financial year is approximately $1.2 million. In addition to that, from that funding line, a grant of $2.671 million has been awarded to support the Defence Innovation Partnership. Additionally, there are committed grants—but of course this reflects actuals, not committed—of a further $3.116 million in committed funding.

The Hon. D.W. RIDGWAY: In relation to the Automotive Workers in Transition Program, can you clarify how much the total amount of grants under that program is? I think it is $1 million since the fund was established in 2014-15.

The Hon. K.J. MAHER: In terms of grant funding from there, my advice is that that is correct, and that is since the inception of the program. However, there is a substantial amount of program funding that is in addition to that grant funding.

The Hon. D.W. RIDGWAY: That may help you answer the next question, minister. In 2016-17, the automotive component of the Our Jobs Plan was allocated $9.3 million. So, if you have only had $1 million of grants in the Automotive Workers in Transition Program—which is only $1 million over the life of the program—where has the balance of $8.3 million gone?

The Hon. K.J. MAHER: I thank the honourable member for his question. I might take part of this question on notice to bring back an accurate answer. I think $7.3 million is the correct figure, but I will take that on notice to bring back a very complete answer. As I have said, my advice is that it is $1 million for the grants component. Then there are a number of programs that are run out of that, including Northern Futures that runs career services and training programs. To pull together all the different areas that have constituted the Automotive Workers in Transition Program, I will take that on notice and bring back a complete answer for the honourable member.

The Hon. D.W. RIDGWAY: Can the minister ensure that he brings that answer back in the next five sitting days, please?

The Hon. K.J. MAHER: I will bring that back as soon as I can. If it is possible to pull it together, we will do it as soon as possible, but I will bring back that answer in due course.

The Hon. D.W. RIDGWAY: I refer to Part B: Agency audit reports for DEWNR, page 129, under Financial statistics. It lists the number of FTEs at 1,562.1. My questions are: how many of these FTEs are based in the Waymouth Street offices? How many of these staff are based in regional areas? How many staff split their role between head office and regional areas?

The Hon. I.K. HUNTER: The advice I have before me at the moment is that there are approximately 897 departmental staff in the Waymouth Street office. There will be other staff and other operatives, particularly, I think, potentially Greenhill Road. As the honourable member will know, we have pulled together most of the previous officers that were spread around the city into that one centre. As for the numbers outside of Waymouth Street, I will need to take that question on notice, as well as the question of people who split their time. That could be very hard to quantify. It may well be that Waymouth Street officers may spend a day a week or several days a month in regional areas, but it may not be part of their structured work. It may well be something that they do by project. I will find out the best way that I can answer the honourable member's question and bring back a response.

The Hon. D.W. RIDGWAY: This is another quick one. Regarding page 129, Significant events and transactions, where it talks about severe storm events, have the remedial works included undertaking work to better protect DEWNR assets against future storm events? What type of modelling was undertaken in order to determine which things were a priority to be completed? Have these works caused delay or changes to DEWNR's maintenance or asset building plans in the past financial year?

The Hon. I.K. HUNTER: It has now been more than a year since the September massive superstorm event. These powerful storms caused damage across model reserves, botanic gardens, Crown lands and Department of Environment, Water and Natural Resources commercial site assets managed by DEWNR across the state.

On 14, 28 and 29 September and 27 December 2016, South Australia experienced severe storm events that caused widespread damage, including by flooding, landslides and high winds. The 2016 September and December storm events caused over $16 million damage to 360 sites in parks and reserves. Roads, trails, fire management tracks, fences, bridges, signage, creek and riverbanks, buildings, seawalls, creek walls and other structures were severely damaged by flooding, water erosion, landslips and falling trees.

The most significant damage occurred in the Adelaide and Mount Lofty Ranges region. The most notable is the damage caused by a catastrophic landslip at the Waterfall Gully site, which caused severe damage to the heritage-listed Utopia Restaurant, Waterfall Gully Summit Trail and the Waterfall pond, weir wall and creek walls.

Whites Bridge in Brownhill Creek Conservation Park was severely damaged, and the swing bridge in the Onkaparinga River National Park at Old Noarlunga was totally destroyed. Numerous fire access tracks were severely damaged across the state, several requiring urgent works to ensure

readiness ahead of the 2016-17 fire season. Park entrance roads and unsealed public access tracks to visitor sites were also severely damaged.

Contract engineers, assessors and civil and structural works contractors have been engaged and mobilised across South Australia to undertake risk assessments, provide advice and remedial and/or reinstatement works and undertake repair and restoration work. The Department of Treasury and Finance approved expenditure of $7.304 million, I am advised, in 2016-17, including bringing forward $1.3 million of works to the 2016-17 financial year, and $4.4 million for 2017-18.

A program of repair and restoration works valued at $7.6 million, which included major works at Waterfall Gully, repairs to statewide fire access tracks, roads, car parks, seawalls, buildings and bridges was completed by 30 June 2017. I am advised that $4.1 million of repair and restoration works are scheduled for 2017-18, including $2.5 million works for the iconic and popular Waterfall Gully Summit Trail.

With regard to the question about priority order for the projects, my advice was that they were assessed on risk to people and property, and so those who had risks associated with them to public access, or those particularly associated with fire tracks, were those that were given priority in terms of restoration works. I can recall having discussions with the agency about making sure that the fire tracks were the highest priority in preparation for the coming bushfire season.

The Hon. D.W. RIDGWAY: I have no further questions, so we can allow 45 minutes for examination of Health, Auditor-General's Report.

The Hon. T.A. FRANKS: My questions relate to Part B: Agency audit reports, TAFE SA, and are for the minister representing the Minister for Higher Education and Skills. I refer to page 494, flowing on to 495. Under the heading, 'No system restriction in SIS to stop students who withdraw from studies receiving a payable grade', it notes that:

> As we identified in previous years, SIS allows a lecturer to record a pass grade for a student who has withdrawn in a unit of competency. For semester 2, 2016 we identified 45 student records with a registration status of 'withdrawn' that were awarded a pass grade. These records related to 35 different students and 23 different certificates/awards.

It goes on to note that this was obviously in error, but:

> At the time of our audit, TAFE SA did not have any formal processes to independently review grades assigned, or to review those that had been altered, meaning there were no detective processes to mitigate the risk associated with allowing the inappropriate entry of grades.

My question is: it is noted that TAFE SA has advised that it has implemented additional reporting to address this since the audit. What is that additional reporting?

The Hon. I.K. HUNTER: I thank the honourable member for her most important question to the minister in the other place. I undertake to take that question on notice and seek a response on her behalf. It is not unusual for the Auditor-General to highlight, as he has done for many agencies, issues with processes inside the agency, and it is not unusual for the agency to quickly move to put in place remedial positions to make sure that those issues raised by the Auditor-General are addressed. The honourable member asks exactly what are the additional reporting processes that have been put in place, so I will take that question to the minister in the other place and bring back a response.

The Hon. S.G. WADE: My first question refers to Part A: Executive summary, page 54, and an unfavourable net operating result of $40 million. The Budget and Finance Committee was advised that the $40 million adverse result related to a dispute with the commonwealth. Has that dispute been resolved and what has been the impact on the unfavourable net operating result?

The Hon. P. MALINAUSKAS: My advice is that the dispute with the commonwealth continues. It is important to contextualise that my advice is also that the dispute between the states and the commonwealth extends to other jurisdictions around the country, and that South Australia is very much not on its own in respect to this dispute around activity-related funding issues with the commonwealth. So, it is still continuing.

The Hon. S.G. WADE: On page 55 of the same part, the Executive Summary, there is a reference to the fact that the department's interim PPR in June 2017 showed that the LHNs and SAAS failed to achieve overall full year savings targets of $124 million and the mandated FTE recovery. The Auditor-General goes on to make clear that the only way, therefore, that the department achieved the unfavourable net operating result referred to previously was by receiving approved budget amendments and centrally retained DHA reserves. What amount was provided in terms of the approved budget amendments?

The Hon. P. MALINAUSKAS: My advice is that there was no additional supplementations made from Treasury in the year 2016-17 and instead those amounts that the honourable member refers to were accounted for in different ways. But there was no additional supplementation from Treasury in the relevant financial year.

The Hon. S.G. WADE: So, what were the approved budget amendments, and what impact did it have on the department's budget?

The Hon. P. MALINAUSKAS: My advice is that obviously, particularly in health, throughout the course of the year there are a range of adjustments that are made in respect of the budget. That is the nature of the budget process, particularly in the context of health, which is often demand driven. In respect to the area or the section that the honourable member is referring to, again, my advice clearly is that there were no additional supplementations made in 2016-17 in the context of budgeted savings.

The Hon. S.G. WADE: Can the minister advise: what was the quantum of the approved budget amendments that are referred to on page 55?

The Hon. P. MALINAUSKAS: To the saving?

The Hon. S.G. WADE: What is the quantum? You are telling me that it is not supplementation. That is great. Tell me what is the quantum of the approved budget amendments.

The Hon. P. MALINAUSKAS: I am happy to take that on notice, Mr Chairman.

The Hon. S.G. WADE: In the same paragraph it refers to funds that were received from centrally retained DHA reserves. How much was returned from centrally retained DHA reserves?

The Hon. P. MALINAUSKAS: My advice is that there is a pool of money that is centrally held by the department for the financial year that, for a lack of a better term, is largely set aside and not in the hands of the LHNs but within the department itself, and that provides a reserve which can then be called upon by the LHNs as the year progresses.

The Hon. S.G. WADE: Considering that on page 55 the Auditor-General notes that the department failed to achieve $124 million in full year savings from LHNs and SAAS and then in the next paragraph $216 million and 512 FTEs, where was that money recovered from, if the department did not receive additional supplementation from Treasury and the approved budget amendments did not balance out those items?

The Hon. P. MALINAUSKAS: Maybe if I can explain it this way. The LHNs individually in their own right have their own respective savings targets and their own budgets and the like. That operates in conjunction with but separate to the department, which in turn can hold reserves. I am advised that that is what accounts for the overall majority of the $216 million figure. So, the department held in reserve a large amount in anticipation of such an event: that the LHNs would not reach their savings targets.

The Hon. S.G. WADE: Taking the global savings that are listed on page 64 and considering that the department, according to these reports, in the last financial year was supposed to have a saving of $52 million and actually incurred additional costs of $17 million, how has the government managed to balance the budget, allegedly, if it has fallen short on its Transforming Health savings?

The Hon. P. MALINAUSKAS: When you say 'balance the budget', do you mean the state budget or the health budget?

The Hon. S.G. WADE: The unfavourable net operating result that I referred to earlier.

The Hon. P. MALINAUSKAS: It is important in the context of Mr Wade's question to refer back to the fact that we are talking about overall, across the department, an unfavourable result of approximately $40 million. So, when the honourable member asks his question, he needs to realise that the net result here for the department as a whole is an unfavourable result of approximately $40 million.

The Hon. S.G. WADE: I think I asked that in my first question; my point being, if the government has failed to reach its savings targets for Transforming Health, where have those savings come from?

The Hon. P. MALINAUSKAS: Which savings are we talking about?

The Hon. S.G. WADE: On page 64, the Auditor-General indicates that the government had both original and refreshed business cases for Transforming Health. Further down that page, he talks about the actual performance against the targets. If the government failed to achieve savings targets within Transforming Health, where did it find those additional savings?

The Hon. P. MALINAUSKAS: Part of the equation is the fact that there was a pool of funding allocated toward spending within Transforming Health that was enabling funding to realise Transforming Health policy that was not ultimately spent and that helps contribute to that savings figure.

The Hon. S.G. WADE: On page 69 of Part A: Executive summary, the Auditor-General reports that the financial benefit target for 2017-18 in the business case refresh was $269.6 million but as at 30 June 2017, total planned benefits for 2017-18 identified were only $140.1 million. What is the current total for the planned Transforming Health financial benefit initiatives identified for the 2017-18 financial year?

The Hon. P. MALINAUSKAS: We will have to take that question on notice. We do not have that particular detail at hand, which probably does not surprise the honourable member in light of the fact that we are talking about the past Auditor-General's Report.

The Hon. S.G. WADE: I just remind the minister that the examination is on this report and it was in that report. In relation to future savings, I refer to page 64, figure 4.3, row 2. Are the savings from Transforming Health projected in the business case refresh shown in this table still the current savings targets for the forward years?

The Hon. P. MALINAUSKAS: My advice is that at the time of publication, yes, these numbers are correct.

The Hon. T.A. FRANKS: My question relates to Part A: Executive summary, page 70. Under the heading '4.2.4.4: Processes to address the Clinical Standards of Care are in progress', the report states:

> The Transforming Health Ministerial Clinical Advisory Committees developed 284 Clinical Standards of Care which, at the time, were determined necessary to provide a sustainable and quality based health care system to meet the future needs of South Australia. The initial business case approved by Cabinet in March 2015 indicated that 52 of these 284 standards were not achievable with the existing health service configuration and this informed the need to transform the health care system.

It goes on to note:

> A review of the number of standards being met was conducted in December 2016 and identified 42 standards not yet being met.

I note that, further on in the recommendation from the Auditor-General, it makes a reference to 45 clinical standards of care previously not achievable needing to be made up to date so that staff are aware of the standards required to be achieved and the approach to achieving them. My first question is quite simple: are there 42, 52 or 45 standards in question that are currently not being met? I suspect that there are 42.

The Hon. P. MALINAUSKAS: I appreciate that it is a relatively simple question, but in terms of trying to honour that with a relatively simple answer, again my advice is largely what is referred to here, and that is that, in December 2016, there were 42 standards that had not yet been met.

The Hon. T.A. FRANKS: My question then is: in between the cabinet business case approval in March 2015 and December 2016, what were the 10 standards met?

The Hon. P. MALINAUSKAS: I am more than happy to seek that information offline and provide it to the honourable member.

The Hon. S.G. WADE: Could the minister advise which of the 42 clinical standards that are still not currently being met will be met by the implementation of the service moves and models of care yet to be implemented?

The Hon. P. MALINAUSKAS: It is important to note that, in respect of that number of 42, I am advised that that is the number as at December 2016, as previously stated. Again, I am more than happy to get that information back to the honourable member as quickly as we can.

The Hon. S.G. WADE: In the recommendation of the Auditor-General, he recommended that DHA should update the clinical benefits framework to reflect the correct standards not being met and the approach to addressing them. Has that been done?

The Hon. P. MALINAUSKAS: My advice is that that work is currently underway.

The Hon. S.G. WADE: So, the advice is that it has not been completed. When will it be completed?

The Hon. P. MALINAUSKAS: My advice is that the work is underway. I am not in a position to be able to put a finite date on the completion.

The Hon. T.A. FRANKS: The Auditor-General has noted that the lack of an up-to-date clinical benefits framework has resulted, or potentially results, in staff not being aware of what standards are required to be achieved and the approach to achieving them. Are these not the very basis of Transforming Health? What will that date be if Transforming Health concludes tomorrow?

The Hon. P. MALINAUSKAS: As has been previously stated, the Transforming Health exercise is largely completed. There still remain issues that we are seeking to address as quickly as we can in a holistic policy response. Adjustments have been made to other Transforming Health plans, which the government has already alluded to. Certainly, I have been undertaking a substantial exercise in the cases of both The QEH and also Modbury Hospital—the two highlights—to make appropriate adjustments to government policy to ensure that we get a high-quality outcome that is still supported by clinicians but delivers a good result for the community at large, particularly in the north-eastern suburbs but also in the western suburbs where a number of efforts have been undertaken by myself, in the short time I have been minister, to try to address those issues.

It is important to also remember that—and this has been the repeatedly stated position of the government consistently through both my predecessor and myself—when it comes to improvements within the system, that has to be an ongoing, continuing effort. Just because the Transforming Health exercise, like I said, is largely complete, it does not mean that the government or the department is immune from continuing to make improvements to our system as we go along. It is a continued effort, and I suspect that in practice, regardless of who has the privilege of holding the office that I now currently do post the election, that will continue to be the case. It will probably be the case in perpetuity.

The Hon. S.G. WADE: Given that the Premier has been known to say that Transforming Health was completed with the opening of the RAH and the closing of the Repat, and the Repat closed last week, I would preface my question by saying: how can that be the case? In November 2014, the establishment of these clinical standards was seen as the central tent pole of Transforming Health and we have only achieved the implementation of 20 per cent of those that have not previously been met. My question is: in light of the minister's comments that Transforming Health is ongoing and continuing reform, can he assure—

The Hon. P. MALINAUSKAS: That is not what I said.

The Hon. S.G. WADE: Sorry, the minister might correct me, but I heard him say that health reform was ongoing, Transforming Health was ongoing.

The Hon. P. MALINAUSKAS: I said health reform would always be invited, but Transforming Health the project is largely complete.

The Hon. S.G. WADE: Okay, let me put the question this way: three years ago the government said it must do this dramatic restructuring because it did not meet 52 standards. Now, three years later, the government has managed to achieve 20 per cent of those. I ask the minister: is the government still committed to the implementation of the remaining 42 clinical standards?

The Hon. P. MALINAUSKAS: Again, I am advised that the Department for Health and Ageing has a process to embed the clinical standards within businesses as usual processes. It is currently underway and will ensure that they are used to inform the design of clinical services and infrastructure and are monitored through a range of business as usual processes.

Using a more granular description of the standards, this process places each statement in one of three different categories: principal, standard or clinical service capability statement. This will enable scheduled periodic review of achievement of the clinical standards of care depending on the granular description and relevant review time frames.

The Hon. S.G. WADE: I note that the minister chose to respond to that by advice from the department. I asked for a government commitment. In relation to Part A: Executive summary, page 27, paragraph 2, it refers to $50 million being spent for building modifications at the new RAH.

The Hon. P. MALINAUSKAS: What page are we on?

The Hon. S.G. WADE: Page 27, second paragraph. I would ask the minister: what were the $50 million worth of modifications that the government paid for in relation to the new RAH?

The Hon. P. MALINAUSKAS: I am advised that these are modifications that we, the government and the department, have asked for. Some examples are layout changes and changes that have been made around ICT infrastructure. I am advised that we can take that on notice and come back with a comprehensive list or breakdown for the honourable member's benefit.

The Hon. S.G. WADE: Could I ask that the minister provides the list in two parts: firstly, the modifications that were requested before commercial acceptance and, secondly, the modifications that were requested after commercial acceptance?

The Hon. P. MALINAUSKAS: Yes, we can certainly try to do that.

The Hon. S.G. WADE: The next question relates to Part B, page 175. The Auditor-General's Report refers to the budget for state-funded works as being $588 million, of which $388 million has been spent as at 30 June 2017. What proportion of the $200 million remaining in the state-funded works budget is still expected to be expended, and to what does that expenditure relate?

The Hon. P. MALINAUSKAS: I am advised that there are certain pieces of equipment that are in the physical possession of the department, and installed, but until the point that they are used in a commercial sense—that is, they are actually put into operation—they are not formally commissioned. The statistical representation of this is determined by equipment being used, as distinct from being owned and not being operated in practice.

The Hon. S.G. WADE: If I could clarify that the minister understands that all of that $200 million is committed, even if not accounted for, and that there is not expected to be an underspend on that item?

The Hon. P. MALINAUSKAS: My advice is that the overwhelming majority of that $200 million can be accounted for in the way I described.

The Hon. T.A. FRANKS: I refer the minister to Part B: Agency audit reports, page 142 and the generic heading, Transforming Health, which notes that SA Health has advised that the Transforming Health program will cease after the Repatriation General Hospital (RGH) is decommissioned and the new RAH opens and that clinical innovation service reforms to improve the consistency and quality of care and to support the financial sustainability of the health system will transition to business as usual. I ask the minister: what is the date of business as usual commencing?

The Hon. P. MALINAUSKAS: Business as usual for?

The Hon. T.A. FRANKS: The end of Transforming Health and the beginning of business as usual commencing.

The Hon. P. MALINAUSKAS: As I have said repeatedly, and stated previously even through this exercise, the Transforming Health process is largely complete. Adjustments are being made, but by and large the Transforming Health exercise is complete. The key major reforms have been realised, but adjustments have been made to what was the initial Transforming Health plan. I think they are probably best represented by the government's already stated commitment in terms of The QEH and the review exercise that has been undertaken at Modbury Hospital, but the process is largely complete, as previously stated.

The Hon. T.A. FRANKS: Does that mean that the infrastructure and the accoutrements around Transforming Health have now been wound up, including the ambassadors? Do the ambassadors for Transforming Health currently have the role of ambassador?

The Hon. P. MALINAUSKAS: I am not advised of any formal withdrawal of specific titles per se. I think it is also fair to say that would not necessarily be the case in any event. There is not an equivalent of a diplomatic visa that is bestowed upon a person who is a Transforming Health ambassador, so it is not as if there is necessarily a formal withdrawal of any such document.

The Hon. T.A. FRANKS: Are the working arrangements and the employment arrangements for the ambassadors for Transforming Health in place then? Do they continue into the future or have these now been withdrawn?

The Hon. P. MALINAUSKAS: My advice is that a number of those people are retained employees of SA Health who assisted us in the Transforming Health process. I am more than happy, for the sake of clarity, to take that question and see if we can get some more information for the honourable member.

The Hon. S.G. WADE: My questions relate to Country Health SA. Part A: Executive summary, page 55, states that Country Health SA highlighted that a strategic risk was the inability to operate within the financial allocations because they were being funded less than the efficient price. On what basis does the department consider that Country Health can operate below the national efficient price?

The Hon. P. MALINAUSKAS: The national efficient price is a nationally consistent average, and of course you will see variations around the place because the nature of the efficient price is that it is a national average. In respect of the country, one of the reasons there is a differential between the two, I am advised, is because of the absence of very substantial infrastructure costs that might otherwise be present in the metropolitan area. Probably the most obvious example of that is the new RAH.

The Hon. S.G. WADE: I refer to appendix Volume 2, page 312. Can the minister explain why the Country Health SA Local Health Network was the only local health network to receive less funding in the 2016-17 financial year than they did in the 2015-16 financial year?

The Hon. P. MALINAUSKAS: I am struggling to understand the context of the question from the honourable member in light of the fact that, according to my advice here and the numbers with which I have been presented, the recurrent funding between the two years is largely the same: $604,221,000 in 2017 and also $604,729,000 in 2016. They are both $604 million—there is a marginal difference, but they are both $604 million is my advice.

The Hon. S.G. WADE: Rather than explain to the minister about health inflation factors, I would rather just go to another matter. In Part A: Executive summary, page 52, it says:

> In 2016-17 Health and Ageing operating expenses were estimated to be 31.2% of total operating expenses. The budget for 2017-18 is expected to remain at that level and projected to reduce by 2020-21.

My questions are: what are the forward projections of health and ageing operating expenses as a proportion of total operating expenses for each year up to 2021, and does the department have projections beyond that date?

The Hon. P. MALINAUSKAS: Are you asking what proportion health is of the state budget going forward? Is that what you are asking?

The Hon. S.G. WADE: Yes, basically, total operating expenses.

The Hon. P. MALINAUSKAS: That is a difficult question to answer, because there is a whole range of inputs that informs what happens to government expenditure going forward in other areas within the budget. It is multifactorial, to say the least, in terms of being able to forecast what those numbers will be into the future, particularly the out years.

The Hon. S.G. WADE: Simply the matter that—

The CHAIR: I am sorry, Hon. Mr Wade, but time for consideration of the Auditor-General's Report has expired.

Bills

POLICE (DRUG TESTING) AMENDMENT BILL

Second Reading

Adjourned debate on second reading (resumed on motion).

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (16:41): I thank all members for their contributions on this important legislation.

Bill read a second time.

Committee Stage

Bill taken through committee without amendment.

Third Reading

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (16:42): I move:

That this bill be now read a third time.

Bill read a third time and passed.

CONSTITUTION (ONE VOTE ONE VALUE) AMENDMENT BILL

Second Reading

Adjourned debate on second reading (resumed on motion).

The Hon. R.I. LUCAS (16:43): I rise on behalf of Liberal members to address this bill. Essentially, I will treat this as a cognate debate. There are two bills, the Constitution (One Vote One Value) Amendment Bill and an associated bill in relation to the establishment of a referendum. I will address the bulk of my comments to this bill and will speak only very briefly to the referendum bill.

This bill is one of the most grotesque, offensive and obscene grabs for power I have seen in my time in this parliament. The background to this particular bill is that earlier this year the full bench of the Supreme Court made a decision which confirmed a decision of the Electoral Districts Boundaries Commission in relation to their interpretation of the law of the South Australian parliament, in particular the Constitution Act as it applies to redistributions. The result was a unanimous decision of the Full Court of the Supreme Court. It was that not only had the Electoral Districts Boundaries Commission correctly interpreted the constitution, the law of the state, but that it had resulted in what has been commonly referred to as a fair set of boundaries, as required by the Constitution Act of South Australia.

This comes after three of the last four state elections where clearly there has been a palpably unfair result, and that follows, of course, the unfair result of 1989. I seek leave to have incorporated into *Hansard* without my reading it a purely statistical table on House of Assembly election outcomes since the 1991 redistribution, a page from the South Australian Parliamentary Research Library, research paper number 55, by Jenni Newton-Farrelly.

Leave granted.

Table 1: House of Assembly election outcomes since the 1991 redistribution

Election	Statewide 2PP (%)		Seats won by each party											Who formed government?	
	ALP	LIB	ALP	LIB	NAT		IND LIB		IND		Others		Total seats	Premier	Basis of government
1993	39.1	60.9	10	37									47	Brown	majority LIB government
1997	48.5	51.5	21	23	1	Maywald	1	Williams	1	McEwen			47	Olsen	minority LIB government with Williams, Maywald + McEwen
2002	49.1	50.9	23	20	1	Maywald			2	McEwen + Such	1	Lewis	47	Rann	minority ALP government with Lewis, Maywald +McEwen
2006	56.8	43.2	28	15	1	Maywald			3	McEwen + Such + Hanna			47	Rann	majority ALP government
2010	48.4	51.6	26	18					3	Such + Brock + Pegler			47	Rann	majority ALP government
2014	47.0	53.0	23	22					2	Such + Brock			47	Wea-therill	minority ALP government with Brock

SOURCE: calculated from data at

State Electoral Office, 1996, Statistical Returns for General Elections 1993 and By-elections 1994, SEO, Adelaide

State Electoral Office, 1998, Statistical Returns: General Elections 11 October 1997, SEO, Adelaide

State Electoral Office, 2003, Statistical Returns for the South Australian Elections 9 February 2002, SEO, Adelaide

State Electoral Office, 2007, Election Statistics: South Australian Elections 18 March 2006, SEO, Adelaide

Electoral Commission SA, 2010, Election Statistics: South Australian Elections 20 March 2010, ECSA, Adelaide

Electoral Commission SA, 2015, Election Statistics: South Australian Elections 15 March 2014, ECSA, Adelaide

The Hon. R.I. LUCAS: What that paper shows is that over the last four elections, in three of those four elections the Australian Labor Party polled less than 50 per cent of the vote. In 2002, it polled 49.1 per cent, yet it won the election; in 2006, they won a comprehensive majority, 56.8, and were rightly rewarded with government; in 2010, they polled 48.4 per cent of the vote and won government; and in 2014, they polled only 47.0 per cent of the two-party preferred vote and remained in government. So, three of the last four boundary redistributions had clearly not met the requirement of the Constitution Act that the party that wins 50 per cent plus one of the popular vote, or the two-party preferred vote, as it has been interpreted, should be entitled to win government.

The implications of the unanimous Supreme Court decision are clearly, in my view, that previous boundaries commissions had not done what they had been required to do by the Constitution Act; that is, to produce fair boundaries on which government changed on 50 per cent plus one of the popular vote. Again, the implications, from my viewpoint, of the Supreme Court decision is that the boundaries commission had not used all of the provisions of the Constitution Act which they were provided with to achieve electoral fairness, as they had been required to do.

It is also clear, from my viewpoint, that the previous boundaries commissions had adopted practices and procedures for redistributions and for interpreting the Constitution Act which were not actually required by the Constitution Act. To that end the very well-prepared submission that the Liberal Party made—I am not sure of the exact date—for the 2016 electoral redistribution on pages 9 and 10 said:

> Importantly, subject to any other limitations in the Constitution Act, the Commission is free to draw the boundaries in such a way that the electors, as at the relevant date, are at or near the permissible tolerance or anywhere in between. Taking advantage of this flexibility has the potential to better enable the commission to achieve the fairness outcome…
>
> In the past, the commission declined to exercise the power directly conferred upon it. It has adopted a practice of attempting to draw the boundaries in such a way as to achieve a *projected quota* which is a quota reckoned not as at the relevant date but as at the time of the next general election. This is a super-added requirement not mentioned in section 77 and not expressly mentioned anywhere in the Constitution Act. Adopting a general practice of this nature has the effect of restricting or limiting the flexibility otherwise given to the Commission by section 77.

Further on, on the same page:

> The Liberal party respectfully submits that the Commission should cease the practice of trying to achieve the projected quota and encourages it to make full use of the permissible tolerance when redrawing the boundaries as a means of achieving the fairness objective in section 83(1).

That is saying quite clearly that some of the practices and procedures of past boundary commissions had interpreted in their own way requirements and practices which were not part of the Constitution Act. They are not referred to anywhere in the Constitution Act, they are not inferred anywhere in the Constitution Act and, more importantly, that is not the view of me as a partisan politician on one side of the political fence opposed to the government of the day.

It is the unanimous view of five judges of the Supreme Court who brought down a finding in relation to a case the Labor Party took, and we must say that we are eternally grateful to the Labor Party for taking that particular case to the Full Court of the Supreme Court because that has now cemented the correct interpretation of the Constitution Act, an interpretation that many of us had long believed should have been the case and had argued for, but had not been adhered to by previous boundaries commissions.

The actions that the Labor Party took—at their cost, and we are eternally grateful for that—managed to confirm the accuracy of what the Constitution Act was telling us, telling the commission and, indeed, telling everyone: that the fairness provision was paramount, that the other provisions in the Constitution Act needed to be interpreted, and that there was the capacity to use the act to deliver on the fairness provision, certainly to a much greater extent than the previous commissions had when, as I said, three out of the last four elections had resulted in Labor governments winning power with less than 50 per cent of the vote.

It is clear because the Labor Party, at great expense to their management, took the decision to the Supreme Court and they lost that case. They did not like the unanimous decision of the Supreme Court, they did not like the decision of the independent boundaries commission. They had always been fierce advocates of the importance of an independent boundaries commission but they did not like the decision that the independent boundaries commission came up with. They then did not like the decision that five judges of the Supreme Court unanimously came up with.

Having enjoyed the benefits of favourable decisions to them from previous boundaries commission redistributions, in this bill they now want to rewrite the rules completely to try to favour themselves again. That is why I have described this bill as the most grotesque, offensive and obscene grab for power that I have ever seen in this chamber.

I want to trace, for the benefit of members, the history of the long debate and in significant parts driven by past members of the Labor Party over many decades in relation to electoral reform, but in particular in relation to the issue of one vote one value which is the essential component of the current bill that we have before us and the current debate from the Labor Party about how they think this is all now unfair to them. For many decades, members will be aware that the Labor Party, and especially former premier Dunstan during the period of the sixties and seventies as leader of the opposition and then as premier, had campaigned throughout South Australia and nationally for electoral reform and, in particular, for what they described as 'one vote one value'.

In this quick historical perspective—I should not say quick, it is going to take a bit of time—that I want to undertake at the second reading, I want to refer to three major pieces of legislation which I think have signposted the electoral reform debate, particularly in relation to one vote one value in South Australia and electoral fairness. They were the pieces of legislation from 1968, 1975 and then ultimately in 1990, and now we see this grotesque and offensive bill before us in 2017.

In 1968, to refresh members' memories, there was a period of time when Labor politicians, some academics like Professor Dean Jaensch and others had campaigned on the basis that there had been a number of Liberal governments elected with less than 50 per cent of the two-party preferred vote. It was commonplace. Books and theses were written on the basis of Liberal governments being elected under former premier Sir Thomas Playford with less than 50 per cent of the two-party preferred vote.

I do note, as we are going through a period now where the notion of the two-party preferred vote is challenged by some, that through part of that period of the fifties in particular, there were significant numbers of Independent members elected to the South Australian parliament. This notion of Independents or third parties being only a current day phenomenon does not bear close analysis because there was a period of time in the last century when significant numbers of Independents were being elected to the House of Assembly.

The bill of 1968 was introduced under the former Liberal premier Steele Hall and the Hall government of 1968 to 1970, and there was much angst and debate not only in the community but within the former Liberal and Country League, the predecessor organisation to the Liberal Party of Australia (SA Division) led then by Steele Hall. That bill introduced for the first time the concept of an independent boundaries commission, something the Labor Party had been campaigning for for a long period of time.

I do not intend to go into much detail about the 1968 bill because it was a complicated piece of legislation in terms of different quotas for country and metropolitan electorates. In that bill an amendment was moved in relation to the tolerance figure. Whatever the quota was, there was to be a plus or minus 15 per cent tolerance around that number in the Liberal bill. Labor opposition leader Don Dunstan moved for the tolerance to be 10 per cent. His argument was that in terms of one vote one value, 10 per cent was much closer to the notion of one vote one value. It was their version of one vote one value rather than the 15 per cent that was included in the Steele Hall Liberal Party legislation. That amendment to the 1968 legislation was defeated at the time.

In 1970, of course, the Hall government was defeated by the incoming Dunstan administration and the Dunstan administration governed in South Australia from 1970 through to 1979. In the middle of that period in 1975, the next significant piece of electoral reform legislation in relation to one vote one value was introduced by then premier Don Dunstan. It was introduced on 30 September 1975. The Constitution Act Amendment Bill (Commission) was introduced by the Hon. Don Dunstan, premier and treasurer. In the second reading speech, the Hon. Don Dunstan said:

> This Bill gives effect to the Government's election mandate to ensure that the single member electorates of the House of Assembly are redistributed on the basis of one vote one value; that is, with as nearly as practicable equal numbers of voters in each electoral district, but with a tolerance from an electoral quota of 10 per cent either way. The Government has stood for and voted for electoral reform on the basis of one vote one value ever since the Labor Party was founded…The Government believes not only that there should be a redistribution but that the Constitution should provide that all future redistributions shall be on this basis, and therefore that part of the Constitution will be entrenched; that is to say, it may not be altered without a referendum...

So, here was an incoming Labor administration that, after decades of campaigning on one vote one value, actually incorporated and entrenched in the constitution, so it could only be amended by referendum, their version of what one vote one value was. Their version of one vote one value was to establish a quota, and there was a tolerance of plus or minus 10 per cent either side in terms of the independent boundaries commission establishing the quota for a particular seat.

The Labor Party had campaigned for a long period of time. They had the capacity to introduce and to pass legislation. They introduced a bill where they said, 'This is what one vote one value is: it is a quota with a tolerance of plus or minus 10 per cent.' That is the provision that still exists within our Constitution Act to this day, the 1975 provision introduced by Don Dunstan. The bill moved by the Hon. Don Dunstan includes the following provision in section 77(1), which is still the same today:

> (1) Whenever an electoral redistribution is made, the redistribution shall be made upon the principle that the number of electors comprised in each electoral district must not (as at the relevant date) vary from the electoral quota by more than the permissible tolerance.
>
> (2) In this section—

…permissible tolerance means a tolerance of ten per centum;

That is the provision that still exists in the Constitution Act to this day, entrenched by the Labor Party, campaigned for, driven by, drafted, created, entrenched in the constitution by the Australian Labor Party as the descriptor, as the way of implementing their notion of one vote one value.

In the debate, in terms of knowledge of electoral matters, one of the Labor Party greats in that particular area was Hugh Hudson, a former minister. Together with Geoff Virgo, he argued a number of the Labor Party cases before the boundaries commission, helped draft their boundaries submissions and argued the case for the Labor Party against the Liberal Party at various redistribution hearings. In the debate on 7 October 1975, Hugh Hudson said a number of things that I want to place upon the record:

The Leader of the Opposition and his Deputy have stated that a one vote one value system may result in a Party with less than 50 per cent of the vote being able to govern because it has a majority of seats. That is always a possibility under a one vote one value system. It arises from what the experts describe as the differential concentration of majorities, the extent to which specific Parties have wasted votes in having had majorities in specific areas.

Traditionally it has always been held to apply as a disadvantage to the Labor Party in South Australia. The traditional view before this decade was that the Labor vote was somewhat wasted because of the heavy concentration of Labor majorities in the north and north-western suburbs of Adelaide, and the expert psephologists have commented on that many times. It was certainly a factor that operated in the 1962, 1965 and, perhaps, the 1968 elections. It probably applies less today; I think that over a period of time a differential change in voting patterns occurs.

Further on, he says:

There has been a change in that period in the overall pattern of voting that has tended to be associated with larger Liberal majorities than used to occur in years gone by.

Further on:

Voting patterns can change differentially again, and it may well be that in the future the Labor Party will suffer once again the disadvantage that arises under a single-member district system from a differential concentration of majorities. Once a single-member district system is accepted with one vote one value, the consequences of that system must be accepted. I have always said that in terms of the interests of the Parties the current distribution, despite the apparent anomalies, is relatively fair, and I have never said anything other than that about the current distribution.

There are two further quotes. In describing the 1975 bill, the Hon. Hugh Hudson said:

In the application of these principles this is a historical occasion in the annals of democracy in this country and in this State: the very first time in the history of this country that action has been taken, not only to implement a democratic system, but to ensure its continuity.

The Hon. Hugh Hudson was there saying that it was a historical occasion in the annals of democracy; the first time that a democratic system was implemented; that there would be an independent body, which had already been supported, but more importantly, they had entrenched this provision of a quota and a plus or minus 10 per cent tolerance—that was one vote one value. That is what the Labor Party campaigned for, and as long as you had a quota with plus or minus 10 per cent, that was one vote one value.

Finally, I quote from the Hon. Hugh Hudson's words, which are perhaps interesting in their interpretation today. He said:

The honourable member has never seen a Labor Government elected in this State with less than 50 per cent of the preferred votes. The honourable member has seen year after year in the history of this State conservative Governments elected with a minority of votes, and yet he has the gall to say that this is the Government that is gerrymandering.

That was what the Hon. Hugh Hudson said in 1975. The Hon. Hugh Hudson, if he were still alive today—I think he has passed—would have seen Labor governments elected with less than 50 per cent of the preferred vote on no fewer than four occasions—in 2002, 2010, 2014 and back in 1989.

That was the Hon. Hugh Hudson and Don Dunstan in 1975 lauding the virtues of this bold new electoral reform to implement and entrench the one vote one value provision in section 77 of the constitution.

Labor policy—Labor campaigning; what they wanted for decades—had now been implemented. As I said, they had always argued that a tolerance of plus or minus 10 per cent was one vote one value, and it was combined with frequent redistributions—that is, if you used the tolerance of plus or minus 10 per cent but then did not have a redistribution for 10 or 15 years, clearly the one vote one value principle would be offended against. But the Labor Party in supporting frequent redistributions—at a later stage they supported them after every election—accepted that, by entrenching the 10 per cent tolerance factor in the Constitution Act, that was one vote one value.

I note for reference when we get to the bill before us that there is nothing in this whole debate from the Labor Party about numbers being required to be exactly equal at the next election—nothing. Their interpretation of one vote one value was not that at the time of the next election there should be equal numbers in every electorate—they never mentioned that, they never campaigned for that, they never said that that was what one vote one value was—what they said was, 'We have succeeded in entrenching the one vote one value provision in the constitution by having a quota with plus or minus 10 per cent of that particular quota.'

I will move on to the third significant piece of legislation, which is the 1990 legislation. That of course came immediately after the 1989 state election when the Labor Party was elected with only 48 per cent of the two-party preferred vote. The Liberal Party polled 52 per cent and was defeated; the Labor Party polled 48 per cent and was elected.

At that time, there was a great outcry in the community, in the parliament, certainly from the opposition and the opposition supporters as well, that this was unfair. The Labor Party had campaigned for decades on electoral reform and fairness. They had said that fairness was their driving principle, and they interpreted that as being one vote one value. As Hugh Hudson said, and as I quoted, there had never been a Labor government elected in South Australia with less than 50 per cent of the vote.

He conceded the problem of what he referred to as the 'differential concentration of majorities', which he said at one stage disadvantaged the Labor Party and at a later stage clearly disadvantaged the Liberal Party, because the Liberal votes were being concentrated in large numbers in a small number of seats and therefore not being spread across a larger number of seats, as were the Labor votes by redistributions, population shifts and other factors which were working at the time.

In 1990, we saw the next significant piece of legislation, which was introduced under the Bannon Labor government. This particular piece of legislation, the Constitution (Electoral Redistribution) Amendment Bill, was introduced by the Deputy Premier, the Hon. Don Hopgood, who, on behalf of the Bannon government in 1990, said in his second reading speech:

> There are three fundamental principles which underlies the Government's agenda in the area of electoral reform. They are:
>
> > the principle of one vote one value;
> >
> > the principle of electoral fairness in which the Party which wins a majority of votes in a majority of electorates, wins government;
> >
> > the principle of regular distributions being undertaken by an independent electoral boundaries commission.
>
> These three principles have guided the electoral reforms of the Government over two decades; they informed the changes we made in 1968 and in 1975. They are written into the Constitution Act of South Australia. These principles have for over 20 years ensured that South Australia had the fairest electoral system in Australia.

However, having argued that, he concedes further on:

> No-one disputes that the current electoral boundaries are out of balance. No-one argues that the current boundaries are fair to all voters: they are not.

The Hon. Don Hopgood was acknowledging some of the concern that was being raised at the time about the unfairness of the 1989 election result. Further on in the debate on the Constitution (Electoral Redistribution) Amendment Bill, the Hon. Don Hopgood said, on behalf of the Labor government:

We would endorse an immediate change to the boundaries with a view to restoring what my side of politics has always called 'one vote one value'.

Further on, he says:

…to describe the very simple process of trying to ensure that the enrolments in the electorates are equal, subject only to some sort of reasonable tolerance.

Again, he is referring back to their support for a 10 per cent tolerance. Further on, he says:

…and, in particular, former Premier Dunstan used 'one vote one value' as a polemical tool as well as a political science label as it were.

Then, further on, he says:

So, we would certainly endorse that part of the Bill which suggests that 'one vote one value' should be restored by an appropriate redistribution of boundaries. However, we would go further and say that, in changing the trigger mechanism, we should change it in such a way that there is an automatic redistribution of boundaries after each State election.

Again, that is consistent with the argument that a tolerance of plus or minus 10 per cent, as long as you are having frequent redistributions, is one vote one value—and that was the Labor Party's policy and position over many decades. A quota with a tolerance of 10 per cent, plus or minus, and frequent redistributions was what the Labor Party entrenched in 1975 in the Constitution Act and had supported prior to that and for many years after the 1975 reforms. The Hon. Don Hopgood went on to say:

The report goes further than that, however, because the second major thrust of that report attempts to take up this concept of electoral fairness, the fairness of the outcome. It is not unknown for a political Party to complain that it has obtained a majority of votes (either in its own right or through the preferential system) but been denied a majority of seats and, therefore, government. Again, that was precisely the point former Premier Dunstan was making in 1968 when he used the political label 'one vote one value' as a polemical slogan.

Finally:

However, this time around it is suggested that it is not the accidental malapportionment that has led to a result of which the Liberal Party has complained but, rather, what is sometimes called differential concentration of majorities, namely, that the boundaries and the movement of population has occurred in such a way as to bottle up, as people sometimes say, very large majorities in certain seats—in short, that one Party has wasted more votes than another.

Those quotes from the Hon. Don Hopgood, deputy premier in the Bannon government in 1990, in this third major piece of reform reinforce again the decade-long view of the Labor Party that one vote one value was a quota with a tolerance of plus or minus 10 per cent and as long as it was associated with frequent redistributions that was the Labor achievement of its long-held policy goal of one vote one value in South Australia.

In that 1990 reform, the Constitution (Electoral Redistribution) Amendment Bill, the following amendment to the bill was moved on behalf of the Labor government by the deputy premier, the Hon. Don Hopgood. This is what is now in the Constitution Act as the fairness clause. This says:

In making an electoral redistribution the Commission must ensure, as far as practicable, that the electoral redistribution is fair to prospective candidates and groups of candidates so that, if candidates of a particular group attract more than 50 per cent of the popular vote (determined by aggregating votes cast throughout the State and allocating preferences to the necessary extent), they will be elected in sufficient numbers to enable a government to be formed.

That fairness provision, section 83(1) of the Constitution Act, was moved by the Labor Party, the deputy premier of the Labor government, in 1990 in the House of Assembly. Further on, 83(2) provides, 'In making an electoral redistribution, the Commission must have regard, as far as practicable, to' five other factors, which were the key factors prior to that; that is, communities of interest, population, topography, feasibility of communication and demographic changes. That is a brief summary of those particular issues.

In terms of the pecking order, the drafting of the Labor government in section 83 was to say, 'You must ensure fair boundaries, but in doing it, the commission must have regard as far as practicable to the following issues, and then may have regard to any other matters it thinks relevant.' There was a clear pecking order in the Labor government's instructions via that legislation to the

independent commission in terms of what was paramount in the work that had to be done. They must deliver fair boundaries, and all these other issues were of a lower priority in terms of the work that the commission had to do.

That groundbreaking legislation introduced by the Labor government, supported by the Liberal Party and various other Independents and minor parties in both houses of parliament back in 1990, is the basis of the current redistribution and has been the basis for the formation of electoral boundaries for the last 25 years or so since the 1990 legislation.

Summarising then the 1968, 1975 and 1990 pieces of legislation, but in particular 1975 and 1990, the current system that we are debating at the moment that operates prior to this attempted perversion of the system by the current Labor government, which are section 77 and section 83. Section 77—the one vote one value provision, the tolerance of plus or minus 10 per cent—and section 83, which is the fairness, were both created by the Labor Party and Labor governments. They were campaigned for by the Labor Party and Labor governments and they were supported by the Labor Party and Labor governments throughout all of that period and in the critical periods in the parliament in 1975 and in 1990.

The current system, from the Labor Party's partisan viewpoint, obviously has served them well. As I showed from that earlier table, in 2002, 2010 and 2014—three of the last four elections—the Labor government had actually been elected with a minority of the votes, as low as 47 per cent in the last state election.

As we turn to the bill and where the government wants to head to from here, the current Constitution Act, as I said, has section 77, which is unchanged from 1975. It has the electoral fairness provision, which is unchanged from the amendments they introduced in 1990, and when one looks at the current Constitution Act, there are no other provisions of any great significance other than a detailed issue as to the definitions of what is a relevant date and election date, which I will refer to in a little while.

The current act, which this bill and the attached bill are seeking to amend, is untouched from the amendments that the Labor government introduced in 1975 and 1990. That history of the current legislation having been created and campaigned for by the Labor Party and having served them pretty well over the last 10 years or so from their own partisan viewpoint is the reason that I have described this bill at the outset of my contribution as the most grotesque, offensive and obscene grab for power that I have ever seen in this parliament.

It is clear that the Labor Party is prepared to jettison decades of Labor principles, policy, campaigns and argument. Those campaigns and argument, which were argued by Labor intellectual giants of the past, with the names of Dunstan, Hopgood, Hudson and Virgo, have been attempted to be overthrown by the Labor intellectual pygmies of 2017, with the names of Weatherill, Rau, Maher and Malinauskas. The dilemma we have in South Australia is that we have people who purport to represent the Labor Party seeking to overturn decades of Labor policy, campaigns and implementation of their own policy positions through legislation in terms of one vote one value.

Now, that it does not suit their partisan interests, they seek to overthrow everything they have believed in for the last many decades because they are unhappy with the independent decision of five judges on a Full Court of the Supreme Court, and they are unhappy with the independent decision of the boundaries commission in relation to trying to implement fair electoral boundaries in South Australia. That is why we have this bill, introduced by the Hon. Mr Malinauskas. In the brief second reading speech on the bill, he says:

> The bill will delete current section 77—

That is the amendment they introduced in 1975, which they said was historic because it implemented one vote one value. The Hon. Mr Malinauskas, on behalf of the current Labor government, says:

> The bill will delete current section 77 and replace it with a new paramount principle for the making of an electoral redistribution. The new paramount principle to which the commission must have regard is that the number of electors in each electoral district should be equal at polling day. This principle is not modified or watered down by a notion of tolerance. The commission must aim for numerical equality of electors across districts, or one vote one value. Proposed new section 77(2) expressly provides that the new paramount principle prevails over the provisions of section

83 of the Constitution Act, which sets out other considerations that the commission is, as far as practicable, to have regard to in making an electoral redistribution.

What the Australian Labor Party is now saying is, 'Stuff the campaigns and the policies that one vote one value was a quota and plus or minus 10 per cent,' that campaign for decades. What they are now saying is, 'Because it no longer suits us we are now redefining one vote one value', and are trying to pretend this is what they meant all along, that you actually have to have an independent commission driving a boundaries redistribution that has to have exactly equal numbers in each electorate come election day. That is the paramount principle, not the issue of the fairness of the electoral system.

What the Labor Party wants is this mathematical formula-driven process which, they know, has allowed them to win government with less than 50 per cent of the vote in three out of the four last elections. The Hon. Hugh Hudson pointed out many years ago the notion of the differential concentration of majorities favouring at one stage the Liberal Party and at another stage the Labor Party. He argued that these things come and go, but if one looks at the 1989 result the situation has clearly been that there have not been any examples of a Liberal government selected since 1989 with less than 50 per cent of the vote but there have been four Labor governments elected on less than 50 per cent of the vote. As I said, three out of the last four have been elected with less than 50 per cent of the vote. Further on, the Hon. Mr Malinauskas, on behalf of the government, said:

> The 2016 commission took a different approach. It used the 10 per cent permissible tolerance in section 77(1) of the Constitution Act to try to address what the commission described as the 'innate imbalance, against the Liberal Party, caused by voting patterns in South Australia upon which have been imposed successive redistributions'. The government considers that the use of the 10 per cent permissible tolerance in this manner erodes the principle of 'one vote one value'. This government is firmly of the view that the commission should strive to achieve, to the extent possible, numerical equality of electors in each district at polling day, that is, to achieve one vote one value.

There it is in all its naked obscenity. Contrary to decades where the Labor Party have argued that one vote one value was a quota with plus or minus10 per cent (as I put on the public record), because it no longer suits them they are now clearly saying that, 'One vote one value, under our new definition, is that it has to be exactly equal numbers in each electorate at the time the election,' irrespective of whether it delivers a Labor government with only 47 per cent of the vote or 46 per cent of the vote. That does not matter. Electoral fairness is not the issue from the Labor Party viewpoint; it is the notion of the new version of what one vote one value is, and not what they have long campaigned for over many, many years.

Clearly, this bill is trying to gut the fairness criteria in the Constitution Act. It is trying to return South Australia to the circumstances which led to 2002, 2010, 2014; that is, Labor governments elected with significantly less than 50 per cent of the vote and, as former Labor luminaries like Hugh Hudson and Don Hopgood identified, to take advantage of the differential concentration of majorities. What the bill and this Labor government are seeking to do is to tie the hands of the independent boundaries commission behind its back so that it cannot achieve electoral fairness.

So, electoral fairness is not the overriding provision they should achieve, even though the Labor Party moved the electoral fairness provision in 1990. What they are seeking to do is constrict the boundaries commission from being able to achieve electoral fairness through this devious and underhanded mechanism of redefining what they have long argued one vote one value was.

Before summarising, it is interesting to note in relation to this Labor Party position on one vote one value and plus or minus 10 per cent and whether or not the commission should be allowed to use the plus or minus 10 per cent tolerance figure or not, my office has been through the last 20 years of Labor Party submissions to the boundaries commission. Time does not permit me to go through all of those, but I refer to the 1991 boundaries submission as a fair indication of some of the earlier submissions from the Labor Party. In later years they did not do detailed work in relation to quotas on individual seats when they made their submissions to the boundaries commission.

Interestingly in that particular submission and some others, they had no compunction at all in arguing to the commission that some seats should be put at plus 9 per cent and 10 per cent and some seats should be put at minus 9 per cent and minus 10 per cent. Using the full value of what they clearly believe was one vote one value, that is, plus or minus 10 per cent, they urged the

boundaries commission to use numbers in particular electorates which used the maximum value of the tolerance.

It is intriguing to look at some of those seats. In seats like Coles and Bragg, very strong Liberal seats at that particular time and still so in the case of Bragg, the Labor Party argued to stuff as many Liberal voters into those seats as they could, that is, as differential concentration majorities. They wanted Bragg at 9 per cent above the quota, so a lot more Liberal votes would be wasted in Bragg, and Coles would be 8 per cent above quota, and they were growing no less strongly than many other Labor seats in other areas.

If you look at some equivalent seats in the safe Labor areas like Semaphore, a very strong Labor area with not strong population growth, the Labor Party had that at minus 2.6 per cent. It was the game that they played. They used the plus or minus 10 per cent: you stuff as many Liberal votes in safe Liberal seats as you can, and you use as few Labor votes in safe Labor seats, like Semaphore, so you argue that it should only be at minus 2.6 per cent of the quota. There are many other examples in the 1991 submission and indeed in some of the later submissions from the Labor Party as well.

Ultimately, the decision was for the commission, not for the submission from the Labor Party, but I note the hypocrisy of the Labor Party in arguing, 'We are holier than thou; we have always believed'—even though the record shows they have not—'that one vote one value means exactly equal numbers at the next election in every electorate,' when their submissions over many sections of the last 20 years of submissions to the electoral boundaries commissions demonstrate their willingness to use the plus or minus 10 per cent of the tolerance factor. As I said, the law says it is there to be used, so I make no criticism of that. The argument would be, in that particular period, that the fairness provision was the one that should be coming into play to the greatest possible extent, not the numerical equality of numbers at the time of the election.

If you are having a redistribution, as the Labor Party argued for decades, frequently, and we now have them every four years, some argue too frequently, and if you have sorted your boundaries out too—as the Labor Party, in 1975, when they inserted section 77, said, one vote one value is a quota and plus or minus 10 per cent; that is one vote one value—then if you generate boundaries within those approximately equal numbers of electors in seats and you have the overriding consideration that you have to have a fair electoral system, that was a system they supported, they proposed, they campaigned for and we in the Liberal Party in the end supported in the debate of 1990 in what was implemented.

Sadly, however, what had occurred was that the boundaries commissions did not implement what the Constitution Act required of them. It has only been as a result of the most recent boundaries commission and the Labor Party taking it to the Supreme Court that we now have a unanimous decision of five judges and the Full Court of the Supreme Court saying, 'This is what the act says. It says "fairness is the overriding provision."'

The act also says that you have one vote one value with a quota and a tolerance of plus or minus 10 per cent. It also says that the commission, in delivering fairness, can use that tolerance of plus or minus 10 per cent to deliver the overriding consideration, which is fair electoral boundaries where governments change at 50 per cent of the vote. I cannot see any logic to the argument, other than that the Labor Party are now upset that the Full Court of the Supreme Court disagrees with their view of the world and that the independent electoral boundaries commission disagrees with their view of the world. The Labor Party have this born to rule mentality, that if they only get 47 per cent or 48 per cent of the vote, they are entitled to govern.'

The other interesting part of the Supreme Court decision was their dismissal of the Labor Party spin that in some way there was evidence to demonstrate that their superior campaigning capacity had generated these particular results. This is the independent decision of a Full Court of the Supreme Court. It is not a claim being made by me or journalists or commentators: it is an independent decision made by the Full Court of the Supreme Court. Because the Labor Party does not like it, because they do not like the fair result that has been delivered, they now try this grotesque, obscene, offensive piece of legislation, this grab for power, to throw it out.

All I can say is that from the discussions I have had with members in this chamber, I am pleased that, on the advice I have received, there will be a majority of people prepared to say no to

this government, to say no to this piece of legislation, to say no to the referendum, to say no to this blatant grab for power, and to say to the government, 'Get off your backsides, go out and campaign, justify your own record of performance or non-performance over the last 16 years in South Australia. Don't try and change the rules because they no longer suit you. Let the people decide in relation to these issues. This is your system, you introduced it, you created it, a Full Court of the Supreme Court has confirmed it and now you want to change the rules.'

It is, sadly, a further indication of the arrogance of this government and how out of touch they are after 16 years. They have this born to rule mentality that it is in the best interests of the state that they stay in power forever, and if the Full Court of the Supreme Court disagrees with them, if the Electoral Commission disagrees with them, 'Well, stuff the lot of them. What we need to do is change the law so that it can further entrench Labor in power.' The bill should be rejected, and when it comes to a vote, I strongly urge members to vote against it.

Debate adjourned on motion of Hon. J.E. Hanson.

REFERENDUM (ONE VOTE ONE VALUE) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 28 September 2017.)

The Hon. R.I. LUCAS (17:38): Members will be delighted that I will speak mercifully briefly on the cognate bill, the Referendum (One Vote One Value) Bill. As I indicated, in addressing the companion bill, I spoke at length on both. This is the referendum bill and it is an attached bill. The views I expressed in the previous second reading apply equally to this bill. All this bill does is to provide that if the first bill is passed by the parliament, it then has to go to a referendum, so the views that I have expressed in terms of opposition to the first bill equally relate to this bill.

Debate adjourned on motion of Hon. J.E. Hanson.

STATUTES AMENDMENT (EXTREMIST MATERIAL) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 18 October 2017.)

The Hon. A.L. McLACHLAN (17:40): I rise to speak to the Statutes Amendment (Extremist Material) Bill. I speak on behalf of the Liberal Party and indicate that the Liberal Party supports the second reading of the bill. The bill constitutes one of the government's counterterrorism measures by giving the police greater powers to intervene during early stages of radicalisation and before a terrorist act has been committed.

The bill addresses what has been described as a legislative gap in the South Australian statute books. It does this by creating two new criminal offences, one indictable and one summary, which will enable the police to intervene during the stages of radicalisation of an extremist. There is a preventative aspect to these powers in that there is no requirement that there be a connection to any terrorist act either planned or committed. This represents a novel approach for South Australian law in this area. The government claimed that this approach will disrupt offences in a timely fashion and increase the ability to arrest suspects and implement preventative strategies through bail conditions.

I will now turn to the detail of the bill. Firstly, the Criminal Law Consolidation Act will be amended to add an offence where a person without reasonable excuse collects or makes a record of information of a kind likely to be of practical use to a person committing or preparing a terrorist act. This is targeted at the possession of instructional material for the commission of terrorist acts. The proposed provisions will also criminalise possession of a document or record containing information of that kind. The maximum penalty for this offence is seven years' imprisonment. The bill also enables a court to order forfeiture of the materials.

The government has advised that when introducing the bill, this particular offence has been modelled on a similar provision in the United Kingdom's Terrorism Act 2000, which has resulted in successful prosecutions. The bill also proposes to amend the Summary Offences Act by adding to the act the offences of possession, production or distribution of extremist material without reasonable excuse.

Extremist material is defined as material that a reasonable person would understand to be directly or indirectly encouraging, glorifying, promoting or condoning terrorist acts. It also encompasses material that is seeking support for or justifying the carrying out of terrorist acts and material that a reasonable person would suspect has been produced or distributed by a terrorist organisation. The maximum penalty for the summary offence is a fine of $10,000 or imprisonment for two years.

The bill has included defence provisions for this offence to cover the publication of films or computer games or where the material was distributed for a legitimate public purpose. A legitimate public purpose is defined in the bill to include educating or informing the public; works of artistic merit; law enforcement or public safety; medical, legal or scientific purposes; reporting by media organisations; and any other factor that the court determining the charges considers relevant.

While the Liberal opposition is generally supportive of legislative mechanisms that will ensure that our community is kept safe, these new measures cause many in our community great concern, given that there does not need to be any proof of a link to a planned terrorist activity. On a personal note, I share these concerns. Such concerns were expressed by the Law Society of South Australia in their submission dated 30 October. In regard to the offences proposed to be added to the Criminal Law Consolidation Act, the society expressed concern that the effect 'if enacted as drafted, would be to potentially render non-terrorist related activities, and its participants, terrorists'.

The society went on to suggest that if a provision is to be included in the Criminal Law Consolidation Act, the offence should contain an element of intent or purpose; for example, a person who collects or possesses such information for a purpose connected with the commission of an act of terrorism. Whilst the Liberal Party is mindful of these concerns, the party has balanced these against the need to protect our community and has decided to support the second reading of the bill.

Debate adjourned on motion of Hon. T.J. Stephens.

STATUTES AMENDMENT (SENTENCING) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 18 October 2017.)

The Hon. A.L. McLACHLAN (17:45): I rise to speak to the Statutes Amendment (Sentencing) Bill. I speak on behalf of the Liberal opposition and indicate that the Liberal Party will be supporting the second reading. The bill follows on from the passing of an earlier sentencing bill, now act, which passed the parliament earlier this year. That act repealed its predecessor, the Criminal Law (Sentencing) Act 1988, and rewrote the legislation for the sentencing of criminal offenders in South Australia. The reforms included changes to sentencing considerations, the introduction of more non-custodial sentencing options for non-violent offenders and new sentencing discount guidelines. The new laws, although passed, are not yet in operation.

This bill will remove all references to the old 1988 sentencing act in all South Australian statutes and update them with references to the new act. When introducing the bill in the other place, the government advised that this bill is the final stage in completing major reform to the sentencing law in this state and that the bill ensures that all consequential amendments to the South Australian statute book necessary for the seamless transition from the previous Criminal Law (Sentencing) Act 1988 to the new sentencing act are in place.

The bill also replicates the old provisions concerning the jurisdictional limits of the Magistrates Court, but instead inserts them into the Magistrates Court Act. It similarly does this for the provisions relating to the jurisdictional limit of the Environment, Resources and Development Court, instead inserting them into the Environment, Resources and Development Court Act 1993.

This was thought to be a more logical and appropriate place for these provisions to reside. It is our understanding that the regulations have not yet been drafted. The opposition supports the passage of the bill in the Legislative Council. I commend the bill to the chamber.

Debate adjourned on motion of Hon. T.J. Stephens.

BUDGET MEASURES BILL 2017

Final Stages

The House of Assembly disagreed to the suggested amendments Nos 1 to 7 made by the Legislative Council.

SUMMARY OFFENCES (LIQUOR OFFENCES) AMENDMENT BILL

Introduction and First Reading

Received from the House of Assembly and read a first time.

LIQUOR LICENSING (LIQUOR REVIEW) AMENDMENT BILL

Final Stages

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

STATUTES AMENDMENT (SACAT NO 2) BILL

Final Stages

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

CRIMINAL LAW CONSOLIDATION (CHILDREN AND VULNERABLE ADULTS) AMENDMENT BILL

Introduction and First Reading

Received from the House of Assembly and read a first time.

At 17:49 the council adjourned until Wednesday 15 November 2017 at 11:30.